

In lieu of the matter proposed to be inserted by the Senate, insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Implementing the 9/
3 11 Commission Recommendations Act of 2007”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—RISK-BASED ALLOCATION OF HOMELAND SECURITY
GRANTS

Sec. 101. First responders homeland security funding.

TITLE II—ENSURING COMMUNICATIONS INTEROPERABILITY FOR
FIRST RESPONDERS

Sec. 201. Improve Communications for Emergency Response Grant Program.

TITLE III—STRENGTHENING USE OF A UNIFIED INCIDENT
COMMAND DURING EMERGENCIES

Sec. 301. National exercise program design.

Sec. 302. National exercise program model exercises.

Sec. 303. Responsibilities of Regional Administrators of the Federal Emergency
Management Agency.

TITLE IV—STRENGTHENING AVIATION SECURITY

Sec. 401. Installation of in-line baggage screening equipment.

Sec. 402. Aviation security capital fund.

Sec. 403. Airport checkpoint screening explosive detection.

Sec. 404. Strengthening explosive detection at airport screening checkpoints.

Sec. 405. Extension of authorization of aviation security funding.

Sec. 406. Inspection of cargo carried aboard passenger aircraft.

Sec. 407. Appeal and redress process for passengers wrongly delayed or prohib-
ited from boarding a flight.

Sec. 408. Transportation Security Administration personnel management.

Sec. 409. Strategic plan to test and implement advanced passenger
prescreening system.

TITLE V—STRENGTHENING THE SECURITY OF CARGO
CONTAINERS

2

Sec. 501. Requirements relating to entry of containers into the United States.

TITLE VI—STRENGTHENING EFFORTS TO PREVENT TERRORIST TRAVEL

Subtitle A—Human Smuggling and Trafficking Center Improvements

Sec. 601. Strengthening the capabilities of the Human Smuggling and Trafficking Center.

Subtitle B—International Collaboration to Prevent Terrorist Travel

Sec. 611. Report on international collaboration to increase border security, enhance global document security, and exchange terrorist information.

Subtitle C—Biometric Border Entry and Exit System

Sec. 621. Submittal of plan on biometric entry and exit verification system implementation.

TITLE VII—IMPROVING INTELLIGENCE AND INFORMATION SHARING WITH LOCAL LAW ENFORCEMENT AND FIRST RESPONDERS

Subtitle A—Fusion and Law Enforcement Education and Teaming (FLEET) Grant Program

Sec. 701. Findings.

Sec. 702. FLEET Grant program.

Subtitle B—Border Intelligence Fusion Center Program

Sec. 711. Findings.

Sec. 712. Establishment of Border Intelligence Fusion Center Program.

Subtitle C—Homeland Security Information Sharing Enhancement

Sec. 721. Short title.

Sec. 722. Homeland Security Advisory System.

Sec. 723. Homeland security information sharing.

Subtitle D—Homeland Security Information Sharing Partnerships

Sec. 731. Short title.

Sec. 732. State, Local, and Regional Information Fusion Center Initiative.

Sec. 733. Homeland Security Information Sharing Fellows Program.

Subtitle E—Homeland Security Intelligence Offices Reorganization

Sec. 741. Departmental reorganization.

Sec. 742. Intelligence components of Department of Homeland Security.

Sec. 743. Office of Infrastructure Protection.

TITLE VIII—PROTECTING PRIVACY AND CIVIL LIBERTIES WHILE EFFECTIVELY FIGHTING TERRORISM

Subtitle A—Privacy and Civil Liberties Oversight Boards

Sec. 801. Short title.

3

- Sec. 802. Findings.
- Sec. 803. Making the Privacy and Civil Liberties Oversight Board independent.
- Sec. 804. Requiring all members of the Privacy and Civil Liberties Oversight Board be confirmed by the Senate.
- Sec. 805. Subpoena power for the Privacy and Civil Liberties Oversight Board.
- Sec. 806. Reporting requirements.

Subtitle B—Enhancement of Privacy Officer Authorities

- Sec. 811. Short title.
- Sec. 812. Authorities of the privacy officer of the Department of Homeland Security.

TITLE IX—IMPROVING CRITICAL INFRASTRUCTURE SECURITY

- Sec. 901. Vulnerability assessment and report on critical infrastructure information.
- Sec. 902. National Asset Database and the National At-Risk Database.

TITLE X—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

- Sec. 1001. Strategic transportation security information sharing.
- Sec. 1002. Transportation security strategic planning.

TITLE XI—PRIVATE SECTOR PREPAREDNESS

- Sec. 1101. Participation of private sector organizations in emergency preparedness and response activities.

TITLE XII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

- Sec. 1201. Findings.
- Sec. 1202. Definitions.

Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism

- Sec. 1211. Repeal and modification of limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism.

Subtitle B—Proliferation Security Initiative

- Sec. 1221. Proliferation Security Initiative improvements and authorities.
- Sec. 1222. Authority to provide assistance to cooperative countries.

Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism

- Sec. 1231. Findings; statement of policy.
- Sec. 1232. Authorization of appropriations for the Department of Defense Cooperative Threat Reduction Program.
- Sec. 1233. Authorization of appropriations for the Department of Energy programs to prevent weapons of mass destruction proliferation and terrorism.

Subtitle D—Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

4

Sec. 1241. Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Sec. 1242. Request for corresponding Russian coordinator.

Subtitle E—Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

Sec. 1251. Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Sec. 1252. Purposes.

Sec. 1253. Composition.

Sec. 1254. Responsibilities.

Sec. 1255. Powers.

Sec. 1256. Nonapplicability of Federal Advisory Committee Act.

Sec. 1257. Report.

Sec. 1258. Termination.

TITLE XIII—NUCLEAR BLACK MARKET COUNTER-TERRORISM ACT

Sec. 1301. Short title.

Sec. 1302. Definitions.

Subtitle A—Sanctions for Transfers of Nuclear Enrichment, Reprocessing, and Weapons Technology, Equipment, and Materials Involving Foreign Persons and Terrorists

Sec. 1311. Authority to impose sanctions on foreign persons.

Sec. 1312. Presidential notification on activities of foreign persons.

Subtitle B—Further Actions Against Corporations Associated With Sanctioned Foreign Persons

Sec. 1321. Findings.

Sec. 1322. Campaign by United States Government officials.

Sec. 1323. Coordination.

Sec. 1324. Report.

Subtitle C—Rollback of Nuclear Proliferation Networks

Sec. 1331. Nonproliferation as a condition of United States assistance.

Sec. 1332. Report on identification of nuclear proliferation network host countries.

Sec. 1333. Suspension of arms sales licenses and deliveries to nuclear proliferation host countries.

TITLE XIV—9/11 COMMISSION INTERNATIONAL IMPLEMENTATION

Sec. 1401. Short title; table of contents.

Subtitle A—Quality Educational Opportunities in Arab and Predominantly Muslim Countries.

Sec. 1411. Findings; Policy.

Sec. 1412. International Arab and Muslim Youth Opportunity Fund.

Sec. 1413. Annual report to Congress.

5

Sec. 1414. Extension of program to provide grants to American-sponsored schools in Arab and predominantly Muslim Countries to provide scholarships.

Subtitle B—Democracy and Development in Arab and Predominantly Muslim Countries

Sec. 1421. Promoting democracy and development in the Middle East, Central Asia, South Asia, and Southeast Asia.

Sec. 1422. Middle East Foundation.

Subtitle C—Restoring United States Moral Leadership

Sec. 1431. Advancing United States interests through public diplomacy.

Sec. 1432. Expansion of United States scholarship, exchange, and library programs in Arab and predominantly Muslim countries.

Sec. 1433. United States policy toward detainees.

Subtitle D—Strategy for the United States Relationship With Afghanistan, Pakistan, and Saudi Arabia

Sec. 1441. Afghanistan.

Sec. 1442. Pakistan.

Sec. 1443. Saudi Arabia.

TITLE XV—RAIL AND PUBLIC TRANSPORTATION SECURITY

Sec. 1501. Short title.

Sec. 1502. Definitions.

Sec. 1503. No preemption of State law.

Subtitle A—Rail and Public Transportation Security

Sec. 1511. National strategy for rail and public transportation security.

Sec. 1512. Assignment of providers of covered transportation to risk-based tiers.

Sec. 1513. Rail and public transportation assessments and plans.

Sec. 1514. Information sharing plan.

Sec. 1515. Rail security assistance.

Sec. 1516. Public transportation security assistance.

Sec. 1517. Over-the-road bus security assistance.

Sec. 1518. Fire and life safety improvements.

Sec. 1519. Security training program.

Sec. 1520. Security exercises.

Sec. 1521. Security research and development.

Sec. 1522. Whistleblower protections.

Sec. 1523. Increase in surface transportation security inspectors.

Sec. 1524. National domestic preparedness consortium.

Sec. 1525. Authorization of Visible Intermodal Protection Response Teams.

Sec. 1526. National Transportation Security Center of Excellence.

Sec. 1527. TSA personnel limitations.

Sec. 1528. Homeland security grants.

Sec. 1529. Threat assessment screening.

Sec. 1530. Background checks for covered individuals.

Sec. 1531. Task force on disqualifying crimes.

Sec. 1532. Penalties.

Sec. 1533. School bus transportation security.

- Sec. 1534. Enhanced security measures for shipments of security sensitive materials.
- Sec. 1535. Technology standards and clearinghouse to improve security of covered transportation.
- Sec. 1536. Rail tank car security testing.
- Sec. 1537. Rail radiological and nuclear detection.
- Sec. 1538. Requirement to provide preference to qualified anti-terrorism technologies.
- Sec. 1539. Promoting liability protections for providers of covered transportation and related technologies.
- Sec. 1540. International rail security program.
- Sec. 1541. Terrorist watchlist and immigration status review at high-risk transportation sites.
- Sec. 1542. Review of grant-making efficiency.
- Sec. 1543. Roles of the Department of Homeland Security and the Department of Transportation.
- Sec. 1544. Assessment and report.
- Sec. 1545. Study of foreign rail security practices.
- Sec. 1546. Alternative material sources.
- Sec. 1547. Immunity for reporting suspicious activities and mitigating terrorist threats relating to transportation security.

Subtitle B—Secure Transportation Through Increased Use of Canine
Detection Teams

- Sec. 1551. Increasing the number of canine detection teams for transportation security.
- Sec. 1552. National explosives detection canine team program increase.
- Sec. 1553. Transportation security administration breeding program increase.

1 **TITLE I—RISK-BASED ALLOCA-**
2 **TION OF HOMELAND SECUR-**
3 **RITY GRANTS**

4 **SEC. 101. FIRST RESPONDERS HOMELAND SECURITY FUND-**
5 **ING.**

6 (a) IN GENERAL.—The Homeland Security Act of
7 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is
8 amended—

9 (1) in section 1(b) in the table of contents by
10 striking the items relating to the second title XVIII,
11 as added by section 501(b)(3) of Public Law 109–
12 347, and inserting the following:

“TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

“Sec. 1901. Domestic Nuclear Detection Office.

“Sec. 1902. Mission of Office.

“Sec. 1904. Testing authority.

“Sec. 1905. Relationship to other Department entities and Federal agencies.

“Sec. 1906. Contracting and grant making authorities.”;

1 (2) by redesignating the second title XVIII, as
2 added by section 501(a) of Public Law 109–347, as
3 title XIX;

4 (3) in title XIX (as so redesignated)—

5 (A) by redesignating sections 1801
6 through 1806 as sections 1901 through 1906,
7 respectively;

8 (B) in section 1904(a) (6 U.S.C. 594(a)),
9 as so redesignated, by striking “section 1802”
10 and inserting “section 1902”; and

11 (C) in section 1906 (6 U.S.C. 596), as so
12 redesignated, by striking “section 1802(a)”
13 each place it appears and inserting “section
14 1902(a)”;

15 (4) in section 1(b) in the table of contents by
16 adding at the end the following:

“TITLE XX—FUNDING FOR FIRST RESPONDERS

“Sec. 2001. Definitions.

“Sec. 2002. Faster and Smarter Funding for First Responders.

“Sec. 2003. Covered grant eligibility and criteria.

“Sec. 2004. Risk-based evaluation and prioritization.

“Sec. 2005. Use of funds and accountability requirements.”;

17 and

18 (5) by adding at the end the following:

1 **“TITLE XX—FUNDING FOR FIRST**
2 **RESPONDERS**

3 **“SEC. 2001. DEFINITIONS.**

4 “In this subtitle:

5 “(1) COVERED GRANT.—The term ‘covered
6 grant’ means any grant to which this title applies
7 under section 2002.

8 “(2) DIRECTLY ELIGIBLE TRIBE.—The term
9 ‘directly eligible tribe’ means any Indian tribe or
10 consortium of Indian tribes that—

11 “(A) meets the criteria for inclusion in the
12 qualified applicant pool for Self-Governance
13 that are set forth in section 402(c) of the In-
14 dian Self-Determination and Education Assist-
15 ance Act (25 U.S.C. 458bb(c));

16 “(B) employs at least 10 full-time per-
17 sonnel in a law enforcement or emergency re-
18 sponse agency with the capacity to respond to
19 calls for law enforcement or emergency services;
20 and

21 “(C)(i) is located on, or within 5 miles of,
22 an international border or waterway;

23 “(ii) is located within 5 miles of a facility
24 designated as high-risk critical infrastructure
25 by the Secretary;

1 “(iii) is located within or contiguous to one
2 of the 50 largest metropolitan statistical areas
3 in the United States; or

4 “(iv) has more than 1,000 square miles of
5 Indian country, as that term is defined in sec-
6 tion 1151 of title 18, United States Code.

7 “(3) ELEVATIONS IN THE THREAT ALERT
8 LEVEL.—The term ‘elevations in the threat alert
9 level’ means any designation (including those that
10 are less than national in scope) that raises the
11 homeland security threat level to either the highest
12 or second highest threat level under the Homeland
13 Security Advisory System referred to in section
14 201(d)(7).

15 “(4) FIRST RESPONDER.—The term ‘first re-
16 sponder’ shall have the same meaning as the term
17 ‘emergency response provider’.

18 “(5) INDIAN TRIBE.—The term ‘Indian tribe’
19 means any Indian tribe, band, nation, or other orga-
20 nized group or community, including any Alaskan
21 Native village or regional or village corporation as
22 defined in or established pursuant to the Alaskan
23 Native Claims Settlement Act (43 U.S.C. 1601 et
24 seq.), that is recognized as eligible for the special

1 programs and services provided by the United States
2 to Indians because of their status as Indians.

3 “(6) REGION.—The term ‘region’ means—

4 “(A) any geographic area consisting of all
5 or parts of 2 or more contiguous States that
6 have a combined population of at least
7 1,650,000 or have an area of not less than
8 20,000 square miles, and that, for purposes of
9 an application for a covered grant, is rep-
10 resented by 1 or more governments or govern-
11 mental agencies within such geographic area,
12 and that is established by law or by agreement
13 of 2 or more such governments or governmental
14 agencies in a mutual aid agreement; or

15 “(B) any other combination of contiguous
16 local government units (including such a com-
17 bination established by law or agreement of two
18 or more governments or governmental agencies
19 in a mutual aid agreement) that is formally cer-
20 tified by the Secretary as a region for purposes
21 of this Act with the consent of—

22 “(i) the State or States in which they
23 are located, including a multi-State entity
24 established by a compact between two or
25 more States; and

1 “(ii) the incorporated municipalities,
2 counties, and parishes that they encom-
3 pass.

4 “(7) TERRORISM PREPAREDNESS.—The term
5 ‘terrorism preparedness’ means any activity designed
6 to improve the ability to prevent, prepare for, re-
7 spond to, mitigate against, or recover from threat-
8 ened or actual terrorist attacks.

9 “(8) CAPABILITIES.—The term ‘capabilities’
10 shall have the same meaning that term has under
11 title VIII.

12 **“SEC. 2002. FASTER AND SMARTER FUNDING FOR FIRST RE-**
13 **SPONDERS.**

14 “(a) COVERED GRANTS.—This title applies to grants
15 provided by the Department to States, urban areas, re-
16 gions, or directly eligible tribes for the primary purpose
17 of improving the ability of first responders to prevent, pre-
18 pare for, respond to, mitigate against, or recover from
19 threatened or actual terrorist attacks, especially those in-
20 volving weapons of mass destruction, administered under
21 the following:

22 “(1) STATE HOMELAND SECURITY GRANT PRO-
23 GRAM.—The State Homeland Security Grant Pro-
24 gram of the Department, or any successor to such
25 grant program.

1 “(2) URBAN AREA SECURITY INITIATIVE.—The
2 Urban Area Security Initiative of the Department,
3 or any successor to such grant program.

4 “(3) LAW ENFORCEMENT TERRORISM PREVEN-
5 TION PROGRAM.—The Law Enforcement Terrorism
6 Prevention Program of the Department, or any suc-
7 cessor to such grant program.

8 “(b) EXCLUDED PROGRAMS.—This title does not
9 apply to or otherwise affect the following Federal grant
10 programs or any grant under such a program:

11 “(1) NONDEPARTMENT PROGRAMS.—Any Fed-
12 eral grant program that is not administered by the
13 Department.

14 “(2) FIRE GRANT PROGRAMS.—The fire grant
15 programs authorized by sections 33 and 34 of the
16 Federal Fire Prevention and Control Act of 1974
17 (15 U.S.C. 2229, 2229a).

18 “(3) EMERGENCY MANAGEMENT PLANNING
19 AND ASSISTANCE ACCOUNT GRANTS.—The Emer-
20 gency Management Performance Grant program and
21 the Urban Search and Rescue Grants program au-
22 thorized by title VI of the Robert T. Stafford Dis-
23 aster Relief and Emergency Assistance Act (42
24 U.S.C. 5195 et seq.); the Departments of Veterans
25 Affairs and Housing and Urban Development, and

1 Independent Agencies Appropriations Act, 2000
2 (113 Stat. 1047 et seq.); and the Earthquake Haz-
3 ards Reduction Act of 1977 (42 U.S.C. 7701 et
4 seq.).

5 **“SEC. 2003. COVERED GRANT ELIGIBILITY AND CRITERIA.**

6 “(a) GRANT ELIGIBILITY.—

7 “(1) STATE, REGION, OR DIRECTLY ELIGIBLE
8 TRIBE.—Any State, region, or directly eligible tribe
9 shall be eligible to apply for a covered grant under
10 the programs referred to in paragraphs (1) and (3)
11 of section 1802(a).

12 “(2) HIGH-THREAT URBAN AREAS.—Any urban
13 area that is determined by the Secretary to be a
14 high-threat urban areas shall be eligible to apply for
15 a covered grant referred to in paragraph (2) of sec-
16 tion 1802(a).

17 “(b) GRANT CRITERIA.—The Secretary shall award
18 covered grants to assist States and local governments in
19 achieving, maintaining, and enhancing the capabilities for
20 terrorism preparedness established by the Secretary.

21 “(c) SUBMISSION OF STATE PREPAREDNESS RE-
22 PORT.—

23 “(1) SUBMISSION REQUIRED.—The Secretary
24 shall require that any State applying to the Sec-
25 retary for a covered grant must submit State Pre-

1 paredness Report specified in section 652(c) of the
2 Department of Homeland Security Appropriations
3 Act, 2007 (Public Law 109–295).

4 “(2) CONSULTATION.—The State report sub-
5 mitted under paragraph (1) shall be developed in
6 consultation with and subject to appropriate com-
7 ment by local governments and first responders
8 within the State.

9 “(d) CONSISTENCY WITH STATE PLANS.—

10 “(1) IN GENERAL.—The Secretary shall ensure
11 that each covered grant is used to supplement and
12 support, in a consistent and coordinated manner, the
13 applicable State homeland security report or plan.

14 “(2) APPROVAL OF PLAN BY SECRETARY.—The
15 Secretary may not award any covered grant to a
16 State unless the Secretary has approved the applica-
17 ble State homeland security plan.

18 “(3) REVISIONS.—A State may revise the appli-
19 cable State homeland security plan approved by the
20 Secretary under this subsection, subject to approval
21 of the revision by the Secretary.

22 “(e) APPLICATION FOR GRANT.—

23 “(1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, any State, urban area, re-
25 gion, or directly eligible tribe may apply for a cov-

1 ered grant by submitting to the Secretary an appli-
2 cation at such time, in such manner, and containing
3 such information as is required under this sub-
4 section, or as the Secretary may reasonably require.

5 “(2) DEADLINES FOR APPLICATIONS AND
6 AWARDS.—All applications for covered grants must
7 be submitted at such time as the Secretary may rea-
8 sonably require for the fiscal year for which they are
9 submitted. The Secretary shall award covered grants
10 pursuant to all approved applications for such fiscal
11 year as soon as practicable, but not later than
12 March 1 of such year.

13 “(3) AVAILABILITY OF FUNDS.—All funds
14 awarded by the Secretary under covered grants in a
15 fiscal year shall be available for obligation through
16 the end of the subsequent fiscal year.

17 “(4) MINIMUM CONTENTS OF APPLICATION.—
18 The Secretary shall require that each applicant in-
19 clude in its application, at a minimum—

20 “(A) the purpose for which the applicant
21 seeks covered grant funds and the reasons why
22 the applicant needs the covered grant to meet
23 the capabilities for terrorism preparedness with-
24 in the State, urban area, region, or directly eli-
25 gible tribe to which the application pertains;

1 “(B) a description of how, by reference to
2 the applicable State homeland security plan or
3 plans under subsection (c), the allocation of
4 grant funding proposed in the application, in-
5 cluding, where applicable, the amount not
6 passed through under section 2005(g)(1), would
7 assist in fulfilling the capabilities for terrorism
8 preparedness specified in such plan or plans;

9 “(C) a statement of whether a mutual aid
10 agreement applies to the use of all or any por-
11 tion of the covered grant funds;

12 “(D) if the applicant is a State, a descrip-
13 tion of how the State plans to allocate the cov-
14 ered grant funds to local governments and In-
15 dian tribes;

16 “(E) if the applicant is a region—

17 “(i) a precise geographical description
18 of the region and a specification of all par-
19 ticipating and nonparticipating local gov-
20 ernments within the geographical area
21 comprising that region;

22 “(ii) a specification of what govern-
23 mental entity within the region will admin-
24 ister the expenditure of funds under the
25 covered grant; and

1 “(iii) a designation of a specific indi-
2 vidual to serve as regional liaison;

3 “(F) a capital budget showing how the ap-
4 plicant intends to allocate and expend the cov-
5 ered grant funds;

6 “(G) if the applicant is a directly eligible
7 tribe, a designation of a specific individual to
8 serve as the tribal liaison; and

9 “(H) a statement of how the applicant in-
10 tends to meet the matching requirement, if any,
11 that applies under section 2005(g)(2).

12 “(5) REGIONAL APPLICATIONS.—

13 “(A) RELATIONSHIP TO STATE APPLICA-
14 TIONS.—A regional application—

15 “(i) shall be coordinated with an ap-
16 plication submitted by the State or States
17 of which such region is a part;

18 “(ii) shall supplement and avoid dupli-
19 cation with such State application; and

20 “(iii) shall address the unique regional
21 aspects of such region’s terrorism pre-
22 paredness needs beyond those provided for
23 in the application of such State or States.

24 “(B) STATE REVIEW AND SUBMISSION.—

25 To ensure the consistency required under sub-

1 section (d) and the coordination required under
2 subparagraph (A) of this paragraph, an appli-
3 cant that is a region must submit its applica-
4 tion to each State of which any part is included
5 in the region for review and concurrence prior
6 to the submission of such application to the
7 Secretary. The regional application shall be
8 transmitted to the Secretary through each such
9 State within 30 days of its receipt, unless the
10 Governor of such a State notifies the Secretary,
11 in writing, that such regional application is in-
12 consistent with the State's homeland security
13 plan and provides an explanation of the reasons
14 therefor.

15 “(C) DISTRIBUTION OF REGIONAL
16 AWARDS.—If the Secretary approves a regional
17 application, then the Secretary shall distribute
18 a regional award to the State or States submit-
19 ting the applicable regional application under
20 subparagraph (B), and each such State shall,
21 not later than the end of the 45-day period be-
22 ginning on the date after receiving a regional
23 award, pass through to the region all covered
24 grant funds or resources purchased with such
25 funds, except those funds necessary for the

1 State to carry out its responsibilities with re-
2 spect to such regional application: Provided,
3 That in no such case shall the State or States
4 pass through to the region less than 80 percent
5 of the regional award.

6 “(D) CERTIFICATIONS REGARDING DIS-
7 TRIBUTION OF GRANT FUNDS TO REGIONS.—
8 Any State that receives a regional award under
9 subparagraph (C) shall certify to the Secretary,
10 by not later than 30 days after the expiration
11 of the period described in subparagraph (C)
12 with respect to the grant, that the State has
13 made available to the region the required funds
14 and resources in accordance with subparagraph
15 (C).

16 “(E) DIRECT PAYMENTS TO REGIONS.—If
17 any State fails to pass through a regional
18 award to a region as required by subparagraph
19 (C) within 45 days after receiving such award
20 and does not request or receive an extension of
21 such period under section 2006(h)(2), the re-
22 gion may petition the Secretary to receive di-
23 rectly the portion of the regional award that is
24 required to be passed through to such region
25 under subparagraph (C).

1 “(F) REGIONAL LIAISONS.—A regional li-
2 aision designated under paragraph (4)(E)(iii)
3 shall—

4 “(i) coordinate with Federal, State,
5 local, regional, and private officials within
6 the region concerning terrorism prepared-
7 ness;

8 “(ii) develop a process for receiving
9 input from Federal, State, local, regional,
10 and private sector officials within the re-
11 gion to assist in the development of the re-
12 gional application and to improve the re-
13 gion’s access to covered grants; and

14 “(iii) administer, in consultation with
15 State, local, regional, and private officials
16 within the region, covered grants awarded
17 to the region.

18 “(6) TRIBAL APPLICATIONS.—

19 “(A) SUBMISSION TO THE STATE OR
20 STATES.—To ensure the consistency required
21 under subsection (d), an applicant that is a di-
22 rectly eligible tribe must submit its application
23 to each State within the boundaries of which
24 any part of such tribe is located for direct sub-

1 mission to the Department along with the appli-
2 cation of such State or States.

3 “(B) OPPORTUNITY FOR STATE COM-
4 MENT.—Before awarding any covered grant to
5 a directly eligible tribe, the Secretary shall pro-
6 vide an opportunity to each State within the
7 boundaries of which any part of such tribe is lo-
8 cated to comment to the Secretary on the con-
9 sistency of the tribe’s application with the
10 State’s homeland security plan. Any such com-
11 ments shall be submitted to the Secretary con-
12 currently with the submission of the State and
13 tribal applications.

14 “(C) FINAL AUTHORITY.—The Secretary
15 shall have final authority to determine the con-
16 sistency of any application of a directly eligible
17 tribe with the applicable State homeland secu-
18 rity plan or plans, and to approve any applica-
19 tion of such tribe. The Secretary shall notify
20 each State within the boundaries of which any
21 part of such tribe is located of the approval of
22 an application by such tribe.

23 “(D) TRIBAL LIAISON.—A tribal liaison
24 designated under paragraph (4)(G) shall—

1 “(i) coordinate with Federal, State,
2 local, regional, and private officials con-
3 cerning terrorism preparedness;

4 “(ii) develop a process for receiving
5 input from Federal, State, local, regional,
6 and private sector officials to assist in the
7 development of the application of such
8 tribe and to improve the tribe’s access to
9 covered grants; and

10 “(iii) administer, in consultation with
11 State, local, regional, and private officials,
12 covered grants awarded to such tribe.

13 “(E) LIMITATION ON THE NUMBER OF DI-
14 RECT GRANTS.—The Secretary may make cov-
15 ered grants directly to not more than 20 di-
16 rectly eligible tribes per fiscal year.

17 “(F) TRIBES NOT RECEIVING DIRECT
18 GRANTS.—An Indian tribe that does not receive
19 a grant directly under this section is eligible to
20 receive funds under a covered grant from the
21 State or States within the boundaries of which
22 any part of such tribe is located, consistent with
23 the homeland security plan of the State as de-
24 scribed in subsection (c). If a State fails to
25 comply with section 2006(g)(1), the tribe may

1 request payment under section 2006(h)(3) in
2 the same manner as a local government.

3 “(7) EQUIPMENT STANDARDS.—If an applicant
4 for a covered grant proposes to upgrade or purchase,
5 with assistance provided under the grant, new equip-
6 ment or systems that do not meet or exceed any ap-
7 plicable national voluntary consensus standards es-
8 tablished by the Secretary, the applicant shall in-
9 clude in the application an explanation of why such
10 equipment or systems will serve the needs of the ap-
11 plicant better than equipment or systems that meet
12 or exceed such standards.

13 **“SEC. 2004. RISK-BASED EVALUATION AND**
14 **PRIORITIZATION.**

15 “(a) PRIORITIZATION OF GRANT APPLICATIONS.—

16 “(1) FACTORS TO BE CONSIDERED.—The Sec-
17 retary shall evaluate and annually prioritize all
18 pending applications for covered grants based upon
19 the degree to which they would, by achieving, main-
20 taining, or enhancing the capabilities of the appli-
21 cants on a nationwide basis, lessen the threat to,
22 vulnerability of, and consequences for persons (in-
23 cluding transient commuting and tourist popu-
24 lations) and critical infrastructure. Such evaluation
25 and prioritization shall be based upon the most cur-

1 rent risk assessment available by the Office of Intel-
2 ligence Analysis and the Office of Infrastructure
3 Protection of the threats of terrorism against the
4 United States. In establishing criteria for evaluating
5 and prioritizing applications for covered grants, the
6 Secretary shall coordinate with the National Advi-
7 sory Council established under section 508, the Di-
8 rector of the Federal Emergency Management Agen-
9 cy, the United States Fire Administrator, the Chief
10 Intelligence Officer of the Department, the Assistant
11 Secretary for Infrastructure Protection, and other
12 Department officials as determined by the Secretary.

13 “(2) CRITICAL INFRASTRUCTURE SECTORS.—
14 The Secretary specifically shall consider threats of
15 terrorism against the following critical infrastructure
16 sectors in all areas of the United States, urban and
17 rural:

18 “(A) Agriculture and food.

19 “(B) Banking and finance.

20 “(C) Chemical industries.

21 “(D) The defense industrial base.

22 “(E) Emergency services.

23 “(F) Energy.

24 “(G) Government facilities.

25 “(H) Postal and shipping.

1 “(I) Public health and health care.

2 “(J) Information technology.

3 “(K) Telecommunications.

4 “(L) Transportation systems.

5 “(M) Water.

6 “(N) Dams.

7 “(O) Commercial facilities.

8 “(P) National monuments and icons.

9 The order in which the critical infrastructure sectors
10 are listed in this paragraph shall not be construed
11 as an order of priority for consideration of the im-
12 portance of such sectors.

13 “(3) TYPES OF THREAT.—The Secretary spe-
14 cifically shall consider the following types of threat
15 to the critical infrastructure sectors described in
16 paragraph (2), and to populations in all areas of the
17 United States, urban and rural:

18 “(A) Biological threats.

19 “(B) Nuclear threats.

20 “(C) Radiological threats.

21 “(D) Incendiary threats.

22 “(E) Chemical threats.

23 “(F) Explosives.

24 “(G) Suicide bombers.

25 “(H) Cyber threats.

1 “(I) Any other threats based on proximity
2 to specific past acts of terrorism or the known
3 activity of any terrorist group.

4 The order in which the types of threat are listed in
5 this paragraph shall not be construed as an order of
6 priority for consideration of the importance of such
7 threats.

8 “(4) CONSIDERATION OF ADDITIONAL FAC-
9 TORS.—The Secretary shall take into account any
10 other specific threat to a population (including a
11 transient commuting or tourist population) or crit-
12 ical infrastructure sector that the Board has deter-
13 mined to exist. In evaluating the threat to a popu-
14 lation or critical infrastructure sector, the Secretary
15 shall give greater weight to threats of terrorism
16 based upon their specificity and credibility, including
17 any pattern of repetition.

18 “(5) MINIMUM AMOUNTS.—After evaluating
19 and prioritizing grant applications under paragraph
20 (1), the Department shall ensure that, for each fis-
21 cal year—

22 “(A) each of the States, other than the
23 Virgin Islands, American Samoa, Guam, and
24 the Northern Mariana Islands, that has an ap-
25 proved State homeland security plan receives no

1 less than 0.25 percent of the funds available for
2 covered grants for that fiscal year for purposes
3 of implementing its homeland security plan;

4 “(B) each of the States, other than the
5 Virgin Islands, American Samoa, Guam, and
6 the Northern Mariana Islands, that has an ap-
7 proved State homeland security plan and that
8 meets one or both of the additional high-risk
9 qualifying criteria under paragraph (6) receives
10 no less than 0.45 percent of the funds available
11 for covered grants for that fiscal year for pur-
12 poses of implementing its homeland security
13 plan;

14 “(C) the Virgin Islands, American Samoa,
15 Guam, and the Northern Mariana Islands each
16 receives no less than 0.08 percent of the funds
17 available for covered grants for that fiscal year
18 for purposes of implementing its approved State
19 plan; and

20 “(D) directly eligible tribes collectively re-
21 ceive no less than 0.08 percent of the funds
22 available for covered grants for such fiscal year
23 for purposes of addressing the needs identified
24 in the applications of such tribes, consistent
25 with the homeland security plan of each State

1 within the boundaries of which any part of any
2 such tribe is located, except that this clause
3 shall not apply with respect to funds available
4 for a fiscal year if the Secretary receives less
5 than 5 applications for such fiscal year from
6 such tribes or does not approve at least one
7 such application.

8 “(6) ADDITIONAL HIGH-RISK QUALIFYING CRI-
9 TERIA.—For purposes of paragraph (5)(B), addi-
10 tional high-risk qualifying criteria consist of—

11 “(A) having a significant international
12 land border; or

13 “(B) adjoining a body of water within
14 North America through which an international
15 boundary line extends.

16 “(b) EFFECT OF REGIONAL AWARDS ON STATE MIN-
17 IMUM.—Any regional award, or portion thereof, provided
18 to a State under section 2003(e)(5)(C) shall not be consid-
19 ered in calculating the minimum State award under sub-
20 section (a)(5) of this section.

21 “(c) RELATIONSHIP TO OTHER PROGRAMS.—This
22 section shall be carried out in consultation with the Sec-
23 retary of Health and Human Services. Nothing in this sec-
24 tion affects the scope of authority of the Secretary of

1 Health and Human Services, including such authority
2 under the Public Health Service Act.

3 **“SEC. 2005. USE OF FUNDS AND ACCOUNTABILITY RE-**
4 **QUIREMENTS.**

5 “(a) IN GENERAL.—A covered grant may be used
6 for—

7 “(1) purchasing or upgrading equipment, in-
8 cluding computer hardware and software, to enhance
9 terrorism preparedness;

10 “(2) exercises to strengthen terrorism prepared-
11 ness;

12 “(3) training for prevention (including detec-
13 tion) of, preparedness for, response to, or recovery
14 from attacks involving weapons of mass destruction,
15 including training in the use of equipment and com-
16 puter software;

17 “(4) developing or updating State homeland se-
18 curity plans, risk assessments, mutual aid agree-
19 ments, and emergency management plans to enhance
20 terrorism preparedness;

21 “(5) establishing or enhancing mechanisms for
22 sharing terrorism threat information;

23 “(6) systems architecture and engineering, pro-
24 gram planning and management, strategy formula-
25 tion and strategic planning, life-cycle systems de-

1 sign, product and technology evaluation, and proto-
2 type development for terrorism preparedness pur-
3 poses;

4 “(7) additional personnel costs resulting from—

5 “(A) elevations in the threat alert level of
6 the Homeland Security Advisory System by the
7 Secretary, or a similar elevation in threat alert
8 level issued by a State, region, or local govern-
9 ment with the approval of the Secretary;

10 “(B) travel to and participation in exer-
11 cises and training in the use of equipment and
12 on prevention activities;

13 “(C) the temporary replacement of per-
14 sonnel during any period of travel to and par-
15 ticipation in exercises and training in the use of
16 equipment and on prevention activities; and

17 “(D) the hiring of staff to serve as intel-
18 ligence analysts to strengthen information and
19 intelligence sharing capabilities;

20 “(8) the costs of equipment (including software)
21 required to receive, transmit, handle, and store clas-
22 sified information;

23 “(9) protecting critical infrastructure against
24 potential attack by the addition of barriers, fences,
25 gates, and other such devices that are constructed

1 consistent with the requirements of section 6(j)(9) of
2 the Robert T. Stafford Disaster Relief and Emer-
3 gency Assistance Act (42 U.S.C. 5196(j)(9), except
4 that the cost of such measures may not exceed the
5 greater of—

6 “(A) \$1,000,000 per project; or

7 “(B) such greater amount as may be ap-
8 proved by the Secretary, which may not exceed
9 10 percent of the total amount of the covered
10 grant;

11 “(10) the costs of commercially available inter-
12 operable communications equipment (that, where ap-
13 plicable, is based on national, voluntary consensus
14 standards) that the Secretary, in consultation with
15 the Assistant Secretary for Emergency Communica-
16 tions, deems best suited to facilitate interoperability,
17 coordination, and integration between and among
18 emergency communications systems, and that com-
19 plies with prevailing grant guidance of the Depart-
20 ment for interoperable communications;

21 “(11) educational curricula development for
22 first responders to ensure that they are prepared for
23 terrorist attacks;

24 “(12) training and exercises to assist public ele-
25 mentary and secondary schools in developing and

1 implementing programs to instruct students regard-
2 ing age-appropriate skills to prevent, prepare for, re-
3 spond to, mitigate against, or recover from an act of
4 terrorism;

5 “(13) paying of administrative expenses directly
6 related to administration of the grant, except that
7 such expenses may not exceed 3 percent of the
8 amount of the grant;

9 “(14) Public safety answering points;

10 “(15) paying for the conduct of any activity
11 permitted under the Law Enforcement Terrorism
12 Prevention Program, or any such successor to such
13 program; and

14 “(16) other appropriate activities as determined
15 by the Secretary.

16 “(b) PROHIBITED USES.—Funds provided as a cov-
17 ered grant may not be used—

18 “(1) to supplant State or local funds;

19 “(2) to construct buildings or other physical fa-
20 cilities;

21 “(3) to acquire land; or

22 “(4) for any State or local government cost-
23 sharing contribution.

1 “(c) INTELLIGENCE ANALYSTS.—An individual hired
2 to serve as an intelligence analyst under subsection
3 (a)(7)(D) must meet at least one of the following criteria:

4 “(1) The individual has successfully completed
5 training that meets the standards of the Inter-
6 national Association of Law Enforcement Intel-
7 ligence Analysts to ensure baseline proficiency in in-
8 telligence analysis and production.

9 “(2) The individual has previously served in a
10 Federal intelligence agency as an intelligence analyst
11 for at least two years.

12 “(d) MULTIPLE-PURPOSE FUNDS.—Nothing in this
13 section shall be construed to preclude State and local gov-
14 ernments from using covered grant funds in a manner
15 that also enhances first responder preparedness for emer-
16 gencies and disasters unrelated to acts of terrorism, if
17 such use assists such governments in achieving capabilities
18 for terrorism preparedness established by the Secretary.

19 “(e) REIMBURSEMENT OF COSTS.—

20 “(1) PAID-ON-CALL OR VOLUNTEER REIM-
21 BURSEMENT.—In addition to the activities described
22 in subsection (a), a covered grant may be used to
23 provide a reasonable stipend to paid-on-call or volun-
24 teer first responders who are not otherwise com-
25 pensated for travel to or participation in training

1 covered by this section. Any such reimbursement
2 shall not be considered compensation for purposes of
3 rendering such a first responder an employee under
4 the Fair Labor Standards Act of 1938 (29 U.S.C.
5 201 et seq.).

6 “(2) PERFORMANCE OF FEDERAL DUTY.—An
7 applicant for a covered grant may petition the Sec-
8 retary for the reimbursement of the cost of any ac-
9 tivity relating to prevention (including detection) of,
10 preparedness for, response to, or recovery from acts
11 of terrorism that is a Federal duty and usually per-
12 formed by a Federal agency, and that is being per-
13 formed by a State or local government (or both)
14 under agreement with a Federal agency.

15 “(f) ASSISTANCE REQUIREMENT.—The Secretary
16 may not require that equipment paid for, wholly or in part,
17 with funds provided as a covered grant be made available
18 for responding to emergencies in surrounding States, re-
19 gions, and localities, unless the Secretary undertakes to
20 pay the costs directly attributable to transporting and op-
21 erating such equipment during such response.

22 “(g) FLEXIBILITY IN UNSPENT HOMELAND SECU-
23 RITY GRANT FUNDS.—Upon request by the recipient of
24 a covered grant, the Secretary may authorize the grantee
25 to transfer all or part of funds provided as the covered

1 grant from uses specified in the grant agreement to other
2 uses authorized under this section, if the Secretary deter-
3 mines that such transfer is in the interests of homeland
4 security.

5 “(h) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
6 ITIES.—

7 “(1) PASS-THROUGH.—The Secretary shall re-
8 quire a recipient of a covered grant that is a State
9 to obligate or otherwise make available to local gov-
10 ernments, first responders, and other local groups,
11 to the extent required under the State homeland se-
12 curity plan or plans specified in the application for
13 the grant, not less than 80 percent of the grant
14 funds, resources purchased with the grant funds
15 having a value equal to at least 80 percent of the
16 amount of the grant, or a combination thereof, by
17 not later than the end of the 45-day period begin-
18 ning on the date the grant recipient receives the
19 grant funds.

20 “(2) COST SHARING.—

21 “(A) IN GENERAL.—The Federal share of
22 the costs of an activity carried out with a cov-
23 ered grant to a State, region, or directly eligible
24 tribe awarded after the 2-year period beginning

1 on the date of the enactment of this section
2 shall not exceed 75 percent.

3 “(B) INTERIM RULE.—The Federal share
4 of the costs of an activity carried out with a
5 covered grant awarded before the end of the 2-
6 year period beginning on the date of the enact-
7 ment of this section shall be 100 percent.

8 “(C) IN-KIND MATCHING.—Each recipient
9 of a covered grant may meet the matching re-
10 quirement under subparagraph (A) by making
11 in-kind contributions of goods or services that
12 are directly linked with the purpose for which
13 the grant is made, including, but not limited to,
14 any necessary personnel overtime, contractor
15 services, administrative costs, equipment fuel
16 and maintenance, and rental space.

17 “(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—
18
19 Any State that receives a covered grant shall certify
20 to the Secretary, by not later than 30 days after the
21 expiration of the period described in paragraph (1)
22 with respect to the grant, that the State has made
23 available for expenditure by local governments, first
24 responders, and other local groups the required
25 amount of grant funds pursuant to paragraph (1).

1 “(4) QUARTERLY REPORT ON HOMELAND SECUR-
2 RITY SPENDING.—The Federal share described in
3 paragraph (2)(A) may be increased by up to 2 per-
4 cent for any State, region, or directly eligible tribe
5 that, not later than 30 days after the end of each
6 fiscal quarter, submits to the Secretary a report on
7 that fiscal quarter. Each such report must include,
8 for each recipient of a covered grant or a pass-
9 through under paragraph (1)—

10 “(A) the amount obligated to that recipient
11 in that quarter;

12 “(B) the amount expended by that recipi-
13 ent in that quarter; and

14 “(C) a summary description of the items
15 purchased by such recipient with such amount.

16 “(5) ANNUAL REPORT ON HOMELAND SECUR-
17 RITY SPENDING.—Each recipient of a covered grant
18 shall submit an annual report to the Secretary not
19 later than 60 days after the end of each Federal fis-
20 cal year. Each recipient of a covered grant that is
21 a region must simultaneously submit its report to
22 each State of which any part is included in the re-
23 gion. Each recipient of a covered grant that is a di-
24 rectly eligible tribe must simultaneously submit its
25 report to each State within the boundaries of which

1 any part of such tribe is located. Each report must
2 include the following:

3 “(A) The amount, ultimate recipients, and
4 dates of receipt of all funds received under the
5 grant during the previous fiscal year.

6 “(B) The amount and the dates of dis-
7 bursements of all such funds expended in com-
8 pliance with paragraph (1) or pursuant to mu-
9 tual aid agreements or other sharing arrange-
10 ments that apply within the State, region, or di-
11 rectly eligible tribe, as applicable, during the
12 previous fiscal year.

13 “(C) How the funds were utilized by each
14 ultimate recipient or beneficiary during the pre-
15 ceding fiscal year.

16 “(D) The extent to which capabilities iden-
17 tified in the applicable State homeland security
18 plan or plans were achieved, maintained, or en-
19 hanced as the result of the expenditure of grant
20 funds during the preceding fiscal year.

21 “(E) The extent to which capabilities iden-
22 tified in the applicable State homeland security
23 plan or plans remain unmet.

24 “(6) INCLUSION OF RESTRICTED ANNEXES.—A
25 recipient of a covered grant may submit to the Sec-

1 retary an annex to the annual report under para-
2 graph (5) that is subject to appropriate handling re-
3 strictions, if the recipient believes that discussion in
4 the report of unmet needs would reveal sensitive but
5 unclassified information.

6 “(i) INCENTIVES TO EFFICIENT ADMINISTRATION OF
7 HOMELAND SECURITY GRANTS.—

8 “(1) PENALTIES FOR DELAY IN PASSING
9 THROUGH LOCAL SHARE.—If a recipient of a cov-
10 ered grant that is a State fails to pass through to
11 local governments, first responders, and other local
12 groups funds or resources required by subsection
13 (g)(1) within 45 days after receiving funds under
14 the grant, the Secretary may—

15 “(A) reduce grant payments to the grant
16 recipient from the portion of grant funds that
17 is not required to be passed through under sub-
18 section (g)(1);

19 “(B) terminate payment of funds under
20 the grant to the recipient, and transfer the ap-
21 propriate portion of those funds directly to local
22 first responders that were intended to receive
23 funding under that grant; or

1 “(C) impose additional restrictions or bur-
2 dens on the recipient’s use of funds under the
3 grant, which may include—

4 “(i) prohibiting use of such funds to
5 pay the grant recipient’s grant-related
6 overtime or other expenses;

7 “(ii) requiring the grant recipient to
8 distribute to local government beneficiaries
9 all or a portion of grant funds that are not
10 required to be passed through under sub-
11 section (g)(1); or

12 “(iii) for each day that the grant re-
13 cipient fails to pass through funds or re-
14 sources in accordance with subsection
15 (g)(1), reducing grant payments to the
16 grant recipient from the portion of grant
17 funds that is not required to be passed
18 through under subsection (g)(1), except
19 that the total amount of such reduction
20 may not exceed 20 percent of the total
21 amount of the grant.

22 “(2) EXTENSION OF PERIOD.—The Governor of
23 a State may request in writing that the Secretary
24 extend the 45-day period under section
25 2003(e)(5)(E) or paragraph (1) for an additional

1 15-day period. The Secretary may approve such a
2 request, and may extend such period for additional
3 15-day periods, if the Secretary determines that the
4 resulting delay in providing grant funding to the
5 local government entities that will receive funding
6 under the grant will not have a significant detri-
7 mental impact on such entities' terrorism prepared-
8 ness efforts.

9 “(3) PROVISION OF NON-LOCAL SHARE TO
10 LOCAL GOVERNMENT.—

11 “(A) IN GENERAL.—The Secretary may
12 upon request by a local government pay to the
13 local government a portion of the amount of a
14 covered grant awarded to a State in which the
15 local government is located, if—

16 “(i) the local government will use the
17 amount paid to expedite planned enhance-
18 ments to its terrorism preparedness as de-
19 scribed in any applicable State homeland
20 security plan or plans;

21 “(ii) the State has failed to pass
22 through funds or resources in accordance
23 with subsection (g)(1); and

24 “(iii) the local government complies
25 with subparagraphs (B) and (C).

1 “(B) SHOWING REQUIRED.—To receive a
2 payment under this paragraph, a local govern-
3 ment must demonstrate that—

4 “(i) it is identified explicitly as an ul-
5 timate recipient or intended beneficiary in
6 the approved grant application;

7 “(ii) it was intended by the grantee to
8 receive a severable portion of the overall
9 grant for a specific purpose that is identi-
10 fied in the grant application;

11 “(iii) it petitioned the grantee for the
12 funds or resources after expiration of the
13 period within which the funds or resources
14 were required to be passed through under
15 subsection (g)(1); and

16 “(iv) it did not receive the portion of
17 the overall grant that was earmarked or
18 designated for its use or benefit.

19 “(C) EFFECT OF PAYMENT.—Payment of
20 grant funds to a local government under this
21 paragraph—

22 “(i) shall not affect any payment to
23 another local government under this para-
24 graph; and

1 “(ii) shall not prejudice consideration
2 of a request for payment under this para-
3 graph that is submitted by another local
4 government.

5 “(D) DEADLINE FOR ACTION BY SEC-
6 RETARY.—The Secretary shall approve or dis-
7 approve each request for payment under this
8 paragraph by not later than 15 days after the
9 date the request is received by the Department.

10 “(j) REPORTS TO CONGRESS.—The Secretary shall
11 submit an annual report to Congress by January 31 of
12 each year covering the preceding fiscal year—

13 “(1) describing in detail the amount of Federal
14 funds provided as covered grants that were directed
15 to each State, region, and directly eligible tribe in
16 the preceding fiscal year;

17 “(2) containing information on the use of such
18 grant funds by grantees; and

19 “(3) describing—

20 “(A) the Nation’s progress in achieving,
21 maintaining, and enhancing the capabilities es-
22 tablished by the Secretary as a result of the ex-
23 penditure of covered grant funds during the
24 preceding fiscal year; and

1 “(B) an estimate of the amount of expend-
2 itures required to attain across the United
3 States the essential capabilities established by
4 the Secretary.”.

5 **TITLE II—ENSURING COMMU-**
6 **NICATIONS INTEROPER-**
7 **ABILITY FOR FIRST RE-**
8 **SPONDERS**

9 **SEC. 201. IMPROVE COMMUNICATIONS FOR EMERGENCY**
10 **RESPONSE GRANT PROGRAM.**

11 (a) ESTABLISHMENT.—Title V of the Homeland Se-
12 curity Act of 2002 (6 U.S.C. 311 et seq.) is amended by
13 adding at the end the following new section:

14 **“SEC. 522. IMPROVE COMMUNICATIONS FOR EMERGENCY**
15 **RESPONSE GRANT PROGRAM.**

16 “(a) ESTABLISHMENT.—The Secretary, acting
17 through the Director of the Office of Grants and Training
18 and in coordination with the Director for Emergency Com-
19 munications, shall establish the Improve Communications
20 for Emergency Response Grant Program to make grants
21 to States and regions to carry out initiatives to improve
22 interoperable emergency communications, including initia-
23 tives to achieve solutions to statewide, regional, national,
24 and, where appropriate, international interoperability.

1 “(b) USE OF GRANT FUNDS.—A State or region re-
2 ceiving a grant under this section may use the grant for
3 short-term or long-term goals for improving interoperable
4 emergency communications, including interoperability
5 within that State or region, and to assist with—

6 “(1) statewide or regional communications
7 planning;

8 “(2) design and engineering for interoperable
9 emergency communications systems;

10 “(3) procurement and installation of interoper-
11 able emergency communications equipment;

12 “(4) interoperable emergency communications
13 exercises;

14 “(5) modeling and simulation exercises for
15 operational command and control functions;

16 “(6) technical assistance and training for inter-
17 operable emergency communications; and

18 “(7) other activities determined by the Sec-
19 retary to be integral to interoperable emergency
20 communications.

21 “(c) REGION DEFINED.—For the purposes of this
22 section, the term ‘region’ means any combination of con-
23 tiguous local government units, including such a combina-
24 tion established by law or mutual aid agreement between

1 two or more local governments or governmental agen-
2 cies.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to the Secretary of Home-
5 land Security for grants under section 522 of the Home-
6 land Security Act of 2002, as added by subsection (a)—

7 (1) such sums as may be necessary for the first
8 fiscal year that begins after the later of—

9 (A) the date on which the Secretary of
10 Homeland Security completes and submits to
11 Congress the National Emergency Communica-
12 tions Plan required under section 1802 of the
13 Homeland Security Act of 2002 (6 U.S.C. 572);

14 (B) the date on which the Secretary of
15 Homeland Security completes and submits to
16 Congress the first baseline interoperability as-
17 sessment required under section 1803 of such
18 Act (6 U.S.C. 573); or

19 (C) the date on which the Secretary of
20 Homeland Security, after consultation with the
21 Director of Emergency Communications, deter-
22 mines and notifies Congress that substantial
23 progress has been made towards the develop-
24 ment and promulgation of voluntary consensus-
25 based interoperable communications standards

1 pursuant to section 1801(c)(11) of such Act (6
2 U.S.C. 571(c)(11)); and

3 (2) such sums as may be necessary for each
4 subsequent fiscal year.

5 (c) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of that Act is amended by inserting after
7 the item relating to section 521 the following:

 “Sec. 522. Improve Communications for Emergency Response Grant Program.”.

8 **TITLE III—STRENGTHENING USE**
9 **OF A UNIFIED INCIDENT COM-**
10 **MAND DURING EMERGENCIES**

11 **SEC. 301. NATIONAL EXERCISE PROGRAM DESIGN.**

12 Section 648(b)(2)(A) of the Department of Home-
13 land Security Appropriations Act, 2007 (Public Law 109–
14 295) is amended by striking clauses (iv) and (v) and in-
15 serting the following:

16 “(iv) designed to provide for system-
17 atic evaluation of readiness and enhance
18 operational understanding of the Incident
19 Command System and relevant mutual aid
20 agreements;

21 “(v) designed to address the unique
22 requirements of populations with special
23 needs; and

1 “(vi) designed to include the prompt
2 development of after-action reports and
3 plans for quickly incorporating lessons
4 learned into future operations; and”.

5 **SEC. 302. NATIONAL EXERCISE PROGRAM MODEL EXER-**
6 **CISES.**

7 Section 648(b)(2)(B) of the Department of Home-
8 land Security Appropriations Act, 2007 (Public Law 109–
9 295) is amended by striking so much as precedes clause
10 (i) and inserting the following:

11 “(B) shall include a selection of model ex-
12 ercises that State, local, and tribal governments
13 can readily adapt for use, and shall provide as-
14 sistance to State, local, and tribal governments
15 with the design, implementation, and evaluation
16 of exercises, whether a model exercise program
17 or an exercise designed locally, that—”.

18 **SEC. 303. RESPONSIBILITIES OF REGIONAL ADMINISTRA-**
19 **TORS OF THE FEDERAL EMERGENCY MAN-**
20 **AGEMENT AGENCY.**

21 Section 507(c)(2) of the Homeland Security Act of
22 2002 (enacted by section 611 of the Department of Home-
23 land Security Appropriations Act, 2007 (Public Law 109–
24 295)) is amended by striking “and” after the semicolon
25 at the end of subparagraph (H), by redesignating subpara-

1 graph (I) as subparagraph (J), and by inserting after sub-
2 paragraph (H) the following:

3 “(I) assisting State, local, or tribal govern-
4 ments, where appropriate, to pre-identify and
5 evaluate suitable sites where a multi-jurisdic-
6 tional unified command system can be quickly
7 established if the need for such a system arises;
8 and”.

9 **TITLE IV—STRENGTHENING**
10 **AVIATION SECURITY**

11 **SEC. 401. INSTALLATION OF IN-LINE BAGGAGE SCREENING**
12 **EQUIPMENT.**

13 Not later than 30 days after the date of enactment
14 of this Act, the Secretary for Homeland Security shall
15 submit to the appropriate congressional committees the
16 cost sharing study described in section 4019(d) of the In-
17 telligence Reform and Terrorism Prevention Act of 2004
18 (118 Stat. 3722), together with the Secretary’s analysis
19 of the study, a list of provisions of the study the Secretary
20 intends to implement, and a plan and schedule for imple-
21 mentation of such listed provisions.

22 **SEC. 402. AVIATION SECURITY CAPITAL FUND.**

23 (a) IN GENERAL.—Section 44923(h)(1) of title 49,
24 United States Code, is amended in the second sentence
25 by striking “2007” and inserting “2011”.

1 (b) DISCRETIONARY GRANTS.—Section 44923(h)(3)
2 of such title is amended by striking “for a fiscal year,
3 \$125,000,000” and inserting “, \$125,000,000 for each of
4 fiscal years 2004, 2005, and 2006 and such sums as may
5 be necessary for each of fiscal years 2007 through 2011”.

6 **SEC. 403. AIRPORT CHECKPOINT SCREENING EXPLOSIVE**
7 **DETECTION.**

8 Section 44940 of title 49, United States Code, is
9 amended—

10 (1) in subsection (d)(4) by inserting “, other
11 than subsection (i),” before “except to”; and

12 (2) by adding at the end the following:

13 “(i) CHECKPOINT SCREENING SECURITY FUND.—

14 “(1) ESTABLISHMENT.—There is established in
15 the Department of Homeland Security a fund to be
16 known as the ‘Checkpoint Screening Security Fund’.

17 “(2) DEPOSITS.—In fiscal year 2008, after
18 amounts are made available under section 44923(h),
19 the next \$250,000,000 derived from fees received
20 under subsection (a)(1) shall be available to be de-
21 posited in the Fund.

22 “(3) FEES.—The Secretary of Homeland Secu-
23 rity shall impose the fee authorized by subsection
24 (a)(1) so as to collect at least \$250,000,000 in fiscal
25 year 2008 for deposit into the Fund.

1 “(4) AVAILABILITY OF AMOUNTS.—Amounts in
2 the Fund shall be available until expended for the
3 research, development, purchase, deployment, and
4 installation of equipment to improve the ability of
5 security screening personnel at screening check-
6 points to detect explosives.”.

7 **SEC. 404. STRENGTHENING EXPLOSIVE DETECTION AT AIR-**
8 **PORT SCREENING CHECKPOINTS.**

9 Not later than 7 days after the date of enactment
10 of this Act, the Assistant Secretary for Homeland Security
11 (Transportation Security Administration) shall submit to
12 the appropriate congressional committees the strategic
13 plan described in the section amended by section 4013(a)
14 of the Intelligence Reform and Terrorism Prevention Act
15 of 2004 (118 Stat. 3719).

16 **SEC. 405. EXTENSION OF AUTHORIZATION OF AVIATION SE-**
17 **CURITY FUNDING.**

18 Section 48301(a) of title 49, United States Code, is
19 amended by striking “and 2006” and inserting “2006,
20 2007, 2008, 2009, 2010, and 2011”.

21 **SEC. 406. INSPECTION OF CARGO CARRIED ABOARD PAS-**
22 **SENGER AIRCRAFT.**

23 (a) IN GENERAL.—Section 44901 of title 49, United
24 States Code, is amended—

1 (1) by redesignating subsections (g) and (h) as
2 subsections (h) and (i), respectively; and

3 (2) by inserting after subsection (f) the fol-
4 lowing:

5 “(g) AIR CARGO ON PASSENGER AIRCRAFT.—

6 “(1) IN GENERAL.—Not later than 3 years
7 after the date of enactment of the Implementing the
8 9/11 Commission Recommendations Act of 2007, the
9 Secretary of Homeland Security shall establish a
10 system to inspect 100 percent of cargo transported
11 on passenger aircraft operated by an air carrier or
12 foreign air carrier in air transportation or intrastate
13 air transportation to ensure the security of all such
14 passenger aircraft carrying cargo.

15 “(2) MINIMUM STANDARDS.—The system re-
16 ferred to in paragraph (1) shall require, at a min-
17 imum, that equipment, technology, procedures, and
18 personnel are used to inspect cargo carried on pas-
19 senger aircraft to provide a level of security equiva-
20 lent to the level of security for the inspection of pas-
21 senger checked baggage as follows:

22 “(A) 35 percent of such cargo is so in-
23 spected by the end of fiscal year 2007.

24 “(B) 65 percent of such cargo is so in-
25 spected by the end of fiscal year 2008.

1 “(C) 100 percent of such cargo is so in-
2 spected by the end of fiscal year 2009.

3 “(3) REGULATIONS.—

4 “(A) INTERIM FINAL RULE.—The Sec-
5 retary of Homeland Security may issue an in-
6 terim final rule as a temporary regulation to
7 implement this subsection without regard to the
8 provisions of chapter 5 of title 5.

9 “(B) FINAL RULE.—

10 “(i) IN GENERAL.—If the Secretary
11 issues an interim final rule under subpara-
12 graph (A), the Secretary shall issue, not
13 later than one year after the effective date
14 of the interim final rule, a final rule as a
15 permanent regulation to implement this
16 subsection in accordance with the provi-
17 sions of chapter 5 of title 5.

18 “(ii) FAILURE TO ACT.—If the Sec-
19 retary does not issue a final rule in accord-
20 ance with clause (i) on or before the last
21 day of the 1-year period referred to in
22 clause (i), the interim final rule issued
23 under subparagraph (A) shall not be effec-
24 tive after the last day of such period.

1 “(iii) SUPERCEDING OF INTERIM
2 FINAL RULE.—The final rule issued in ac-
3 cordance with this subparagraph shall su-
4 persede the interim final rule issued under
5 subparagraph (A).

6 “(4) REPORT.—Not later than 1 year after the
7 date of establishment of the system under paragraph
8 (1), the Secretary shall transmit to Congress a re-
9 port that describes the system.”.

10 (b) ASSESSMENT OF EXEMPTIONS.—

11 (1) TSA ASSESSMENT OF EXEMPTIONS.—

12 (A) IN GENERAL.—Not later than 120
13 days after the date of enactment of this Act,
14 the Secretary of Homeland Security shall sub-
15 mit to the appropriate committees of Congress
16 and to the Comptroller General a report regard-
17 ing an assessment of each exemption granted
18 for inspection of air cargo and an analysis to
19 assess the risk of maintaining such exemption.

20 (B) CONTENTS.—The report referred to in
21 subparagraph (A) shall include—

22 (i) the rationale for each exemption;
23 (ii) what percentage of cargo is not
24 screened as a result of each exemption;

1 (iii) the impact of each exemption on
2 aviation security;

3 (iv) the projected impact on the flow
4 of commerce of eliminating each exemp-
5 tion, respectively, should the Secretary
6 choose to take such action; and

7 (v) plans and rationale for maintain-
8 ing, changing, or eliminating each exemp-
9 tion.

10 (2) GAO ASSESSMENT.—Not later than 120
11 days after the date on which the report under para-
12 graph (1) is submitted, the Comptroller General
13 shall review the report and provide to Congress an
14 assessment of the methodology of determinations
15 made by the Secretary for maintaining, changing, or
16 eliminating an exemption.

17 **SEC. 407. APPEAL AND REDRESS PROCESS FOR PAS-**
18 **SENGERS WRONGLY DELAYED OR PROHIB-**
19 **ITED FROM BOARDING A FLIGHT.**

20 (a) IN GENERAL.—Subtitle C of title IV of the
21 Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.)
22 is amended by adding at the end the following:

1 **“SEC. 432. APPEAL AND REDRESS PROCESS FOR PAS-**
2 **SENGERS WRONGLY DELAYED OR PROHIB-**
3 **ITED FROM BOARDING A FLIGHT.**

4 “(a) IN GENERAL.—The Secretary shall establish a
5 timely and fair process for individuals who believe they
6 have been delayed or prohibited from boarding a commer-
7 cial aircraft because they were wrongly identified as a
8 threat under the regimes utilized by the Transportation
9 Security Administration, the Bureau of Customs and Bor-
10 der Protection, or any other Department entity.

11 “(b) OFFICE OF APPEALS AND REDRESS.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-
13 tablish an Office of Appeals and Redress to oversee
14 the process established by the Secretary pursuant to
15 subsection (a).

16 “(2) RECORDS.—The process established by the
17 Secretary pursuant to subsection (a) shall include
18 the establishment of a method by which the Office
19 of Appeals and Redress, under the direction of the
20 Secretary, will be able to maintain a record of air
21 carrier passengers and other individuals who have
22 been misidentified and have corrected erroneous in-
23 formation.

24 “(3) INFORMATION.—To prevent repeated
25 delays of a misidentified passenger or other indi-
26 vidual, the Office of Appeals and Redress shall—

1 “(A) ensure that the records maintained
2 under this subsection contain information deter-
3 mined by the Secretary to authenticate the
4 identity of such a passenger or individual; and

5 “(B) furnish to the Transportation Secu-
6 rity Administration, the Bureau of Customs
7 and Border Protection, or any other appro-
8 priate Department entity, upon request, such
9 information as may be necessary to allow such
10 agencies to assist air carriers in improving their
11 administration of the advanced passenger
12 prescreening system and reduce the number of
13 false positives.

14 “(4) INITIATION OF APPEAL AND REDRESS
15 PROCESS AT AIRPORTS.—The Office of Appeals and
16 Redress shall establish at each airport at which the
17 Department has a significant presence a process to
18 allow air carrier passengers to begin the appeals
19 process established pursuant to subsection (a) at the
20 airport.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) of such Act is amended by inserting after
23 the item relating to section 430 the following:

 “Sec. 432. Appeal and redress process for passengers wrongly delayed or pro-
 hibited from boarding a flight.”.

1 **SEC. 408. TRANSPORTATION SECURITY ADMINISTRATION**

2 **PERSONNEL MANAGEMENT.**

3 (a) **ELIMINATION OF CERTAIN PERSONNEL MANAGE-**
4 **MENT AUTHORITIES.**—Effective 90 days after the date of
5 the enactment of this Act—

6 (1) section 111(d) of the Aviation and Trans-
7 portation Security Act (49 U.S.C. 44935 note) is re-
8 pealed and any authority of the Secretary of Home-
9 land Security derived from such section 111(d) shall
10 terminate;

11 (2) any personnel management system, to the
12 extent established or modified pursuant to such sec-
13 tion 111(d) (including by the Secretary through the
14 exercise of any authority derived from such section
15 111(d)) shall terminate; and

16 (3) the Secretary shall ensure that all TSA em-
17 ployees are subject to the same personnel manage-
18 ment system as described in subsection (e)(1) or
19 (e)(2).

20 (b) **ESTABLISHMENT OF CERTAIN UNIFORMITY RE-**
21 **QUIREMENTS.**—

22 (1) **SYSTEM UNDER SUBSECTION (e)(1).**—The
23 Secretary shall, with respect to any personnel man-
24 agement system described in subsection (e)(1), take
25 any measures which may be necessary to provide for

1 the uniform treatment of all TSA employees under
2 such system.

3 (2) SYSTEM UNDER SUBSECTION (e)(1).—Sec-
4 tion 9701(b) of title 5, United States Code, is
5 amended—

6 (A) by striking “and” at the end of para-
7 graph (4);

8 (B) by striking the period at the end of
9 paragraph (5) and inserting “; and”; and

10 (C) by adding at the end the following new
11 paragraph:

12 “(6) provide for the uniform treatment of all
13 TSA employees (as defined in section 408(d) of the
14 Implementing the 9/11 Commission Recommenda-
15 tions Act of 2007).”.

16 (3) EFFECTIVE DATE.—

17 (A) PROVISIONS RELATING TO A SYSTEM
18 UNDER SUBSECTION (e)(1).—Any measures
19 necessary to carry out paragraph (1) shall take
20 effect 90 days after the date of the enactment
21 of this Act.

22 (B) PROVISIONS RELATING TO A SYSTEM
23 UNDER SUBSECTION (e)(2).—Any measures
24 necessary to carry out the amendments made
25 by paragraph (2) shall take effect 90 days after

1 the date of the enactment of this Act or, if
2 later, the commencement date of the system in-
3 volved.

4 (c) REPORT TO CONGRESS.—

5 (1) REPORT REQUIRED.—Not later than 6
6 months after the date of the enactment of this Act,
7 the Government Accountability Office shall submit
8 to the Committee on Homeland Security of the
9 House of Representatives and the Committee on
10 Homeland Security and Governmental Affairs of the
11 Senate a report on—

12 (A) the pay system that applies with re-
13 spect to TSA employees as of the date of the
14 enactment of this Act; and

15 (B) any changes to such system which
16 would be made under any regulations which
17 have been prescribed under chapter 97 of title
18 5, United States Code.

19 (2) MATTERS FOR INCLUSION.—The report re-
20 quired under paragraph (1) shall include—

21 (A) a brief description of each pay system
22 described in paragraphs (1)(A) and (1)(B), re-
23 spectively;

1 (B) a comparison of the relative advan-
2 tages and disadvantages of each of those pay
3 systems; and

4 (C) such other matters as the Government
5 Accountability Office considers appropriate.

6 (d) TSA EMPLOYEE DEFINED.—In this section, the
7 term “TSA employee” means an individual who holds—

8 (1) any position which was transferred (or the
9 incumbent of which was transferred) from the
10 Transportation Security Administration of the De-
11 partment of Transportation to the Department of
12 Homeland Security by section 403 of the Homeland
13 Security Act of 2002 (6 U.S.C. 203); or

14 (2) any other position within the Department of
15 Homeland Security the duties and responsibilities of
16 which include carrying out one or more of the func-
17 tions that were transferred from the Transportation
18 Security Administration of the Department of
19 Transportation to the Secretary by such section.

20 (e) PERSONNEL MANAGEMENT SYSTEM DE-
21 SCRIBED.—A personnel management system described in
22 this subsection is—

23 (1) any personnel management system, to the
24 extent that it applies with respect to any TSA em-

1 ployees by virtue of section 114(n) of title 49,
2 United States Code; and

3 (2) any human resources management system,
4 established under chapter 97 of title 5, United
5 States Code.

6 **SEC. 409. STRATEGIC PLAN TO TEST AND IMPLEMENT AD-**
7 **VANCED PASSENGER PRESCREENING SYS-**
8 **TEM.**

9 Not later than 90 days after the date of the enact-
10 ment of the Act, the Secretary of Homeland Security shall
11 submit to Congress a plan that—

12 (1) describes the system to be utilized for the
13 Department of Homeland Security to assume the
14 performance of comparing passenger information, as
15 defined by the Assistant Secretary of Homeland Se-
16 curity (Transportation Security Administration), to
17 the automatic selectee and no fly lists, utilizing ap-
18 propriate records in the consolidated and integrated
19 terrorist watchlist maintained by the Federal Gov-
20 ernment;

21 (2) provides a projected timeline for each phase
22 of testing and implementation of the system;

23 (3) explains how the system will be integrated
24 with the prescreening system for passenger on inter-
25 national flights; and

1 (4) describes how the system complies with sec-
2 tion 552a of title 5, United States Code.

3 **TITLE V—STRENGTHENING THE**
4 **SECURITY OF CARGO CON-**
5 **TAINERS**

6 **SEC. 501. REQUIREMENTS RELATING TO ENTRY OF CON-**
7 **TAINERS INTO THE UNITED STATES.**

8 (a) REQUIREMENTS.—Section 70116 of title 46,
9 United States Code, is amended by adding at the end the
10 following new subsection:

11 “(c) REQUIREMENTS RELATING TO ENTRY OF CON-
12 TAINERS.—

13 “(1) IN GENERAL.—A container may enter the
14 United States, either directly or via a foreign port,
15 only if—

16 “(A) the container is scanned with equip-
17 ment that meets the standards established pur-
18 suant to paragraph (2)(A) and a copy of the
19 scan is provided to the Secretary; and

20 “(B) the container is secured with a seal
21 that meets the standards established pursuant
22 to paragraph (2)(B), before the container is
23 loaded on the vessel for shipment to the United
24 States.

1 “(2) STANDARDS FOR SCANNING EQUIPMENT
2 AND SEALS.—

3 “(A) SCANNING EQUIPMENT.—The Sec-
4 retary shall establish standards for scanning
5 equipment required to be used under paragraph
6 (1)(A) to ensure that such equipment uses the
7 best-available technology, including technology
8 to scan a container for radiation and density
9 and, if appropriate, for atomic elements.

10 “(B) SEALS.—The Secretary shall estab-
11 lish standards for seals required to be used
12 under paragraph (1)(B) to ensure that such
13 seals use the best-available technology, includ-
14 ing technology to detect any breach into a con-
15 tainer and identify the time of such breach.

16 “(C) REVIEW AND REVISION.—The Sec-
17 retary shall—

18 “(i) review and, if necessary, revise
19 the standards established pursuant to sub-
20 paragraphs (A) and (B) not less than once
21 every two years; and

22 “(ii) ensure that any such revised
23 standards require the use of technology, as
24 soon as such technology becomes available,
25 to—

1 “(I) identify the place of a
2 breach into a container;

3 “(II) notify the Secretary of such
4 breach before the container enters the
5 Exclusive Economic Zone of the
6 United States; and

7 “(III) track the time and location
8 of the container during transit to the
9 United States, including by truck,
10 rail, or vessel.

11 “(D) DEFINITION.—In subparagraph (C),
12 the term ‘Exclusive Economic Zone of the
13 United States’ has the meaning given the term
14 ‘Exclusive Economic Zone’ in section 2101(10a)
15 of this title.”.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out section
18 70116(c) of title 46, United States Code, as added by sub-
19 section (a) of this section, such sums as may be necessary
20 for each of the fiscal years 2008 through 2013.

21 (c) REGULATIONS; APPLICATION.—

22 (1) REGULATIONS.—

23 (A) INTERIM FINAL RULE.—Consistent
24 with the results of and lessons derived from the
25 pilot system implemented under section 231 of

1 the SAFE Port Act (Public Law 109–347), the
2 Secretary of Homeland Security shall issue an
3 interim final rule as a temporary regulation to
4 implement section 70116(c) of title 46, United
5 States Code, as added by subsection (a) of this
6 section, not later than 180 days after the date
7 of the submission of the report under section
8 231 of the SAFE Port Act, without regard to
9 the provisions of chapter 5 of title 5, United
10 States Code.

11 (B) FINAL RULE.—The Secretary shall
12 issue a final rule as a permanent regulation to
13 implement section 70116(c) of title 46, United
14 States Code, as added by subsection (a) of this
15 section, not later than one year after the date
16 of the submission of the report under section
17 231 of the SAFE Port Act, in accordance with
18 the provisions of chapter 5 of title 5, United
19 States Code. The final rule issued pursuant to
20 that rulemaking may supersede the interim
21 final rule issued pursuant to subparagraph (A).

22 (2) PHASED-IN APPLICATION.—

23 (A) IN GENERAL.—The requirements of
24 section 70116(c) of title 46, United States
25 Code, as added by subsection (a) of this section,

1 apply with respect to any container entering the
2 United States, either directly or via a foreign
3 port, beginning on—

4 (i) the end of the 3-year period begin-
5 ning on the date of the enactment of this
6 Act, in the case of a container loaded on
7 a vessel destined for the United States in
8 a country in which more than 75,000
9 twenty-foot equivalent units of containers
10 were loaded on vessels for shipping to the
11 United States in 2005; and

12 (ii) the end of the 5-year period begin-
13 ning on the date of the enactment of this
14 Act, in the case of a container loaded on
15 a vessel destined for the United States in
16 any other country.

17 (B) EXTENSION.—The Secretary may ex-
18 tend by up to one year the period under clause
19 (i) or (ii) of subparagraph (A) for containers
20 loaded in a port, if the Secretary—

21 (i) finds that the scanning equipment
22 required under section 70116(c) of title 46,
23 United States Code, as added by sub-
24 section (a) of this section, is not available

1 for purchase and installation in the port;
2 and
3 (ii) at least 60 days prior to issuing
4 such extension, transmits such finding to
5 the appropriate congressional committees.

6 (d) INTERNATIONAL CARGO SECURITY STAND-
7 ARDS.—The Secretary, in consultation with the Secretary
8 of State, is encouraged to promote and establish inter-
9 national standards for the security of containers moving
10 through the international supply chain with foreign gov-
11 ernments and international organizations, including the
12 International Maritime Organization and the World Cus-
13 toms Organization.

14 (e) INTERNATIONAL TRADE AND OTHER OBLIGA-
15 TIONS.—In carrying out section 70116(c) of title 46,
16 United States Code, as added by subsection (a) of this
17 section, the Secretary shall consult with appropriate Fed-
18 eral departments and agencies and private sector stake-
19 holders to ensure that actions under such section do not
20 violate international trade obligations or other inter-
21 national obligations of the United States.

1 **TITLE VI—STRENGTHENING EF-**
2 **FORTS TO PREVENT TER-**
3 **RORIST TRAVEL**

4 **Subtitle A—Human Smuggling and**
5 **Trafficking Center Improvements**

6 **SEC. 601. STRENGTHENING THE CAPABILITIES OF THE**
7 **HUMAN SMUGGLING AND TRAFFICKING CEN-**
8 **TER.**

9 (a) IN GENERAL.—The Secretary, acting through the
10 Assistant Secretary of Homeland Security for United
11 States Immigration and Customs Enforcement, shall pro-
12 vide to the Human Smuggling and Trafficking Center (in
13 this section referred to as the “Center”) the administra-
14 tive support and funding required for its maintenance, in-
15 cluding funding for personnel, leasing of office space, sup-
16 plies, equipment, technology, training, and travel expenses
17 necessary for the Center to carry out its mission.

18 (b) STAFFING OF THE CENTER.—

19 (1) IN GENERAL.—Funding provided under
20 subsection (a) shall be used for the hiring of for not
21 fewer than 30 full-time equivalent staff for the Cen-
22 ter, to include the following:

23 (A) One Director.

24 (B) One Deputy Director for Smuggling.

25 (C) One Deputy Director for Trafficking.

1 (D) One Deputy Director for Terrorist
2 Travel.

3 (E) Not fewer than 15 intelligence analysts
4 or Special Agents, to include the following:

5 (i) Not fewer than ten such analysts
6 or Agents shall be intelligence analysts or
7 law enforcement agents who shall be de-
8 tailed from entities within the Department
9 of Homeland Security with human smug-
10 gling and trafficking related responsibil-
11 ities, as determined by the Secretary.

12 (ii) Not fewer than one full time pro-
13 fessional staff detailee from each of the
14 United States Coast Guard, United States
15 Immigration and Customs Enforcement,
16 United States Customs and Border Protec-
17 tion, Transportation Security Administra-
18 tion, and the Office of Intelligence and
19 Analysis.

20 (2) REQUIREMENTS.—Intelligence analysts or
21 Special Agents detailed to the Center under para-
22 graph (1)(E) shall have at least three years experi-
23 ence related to human smuggling or human traf-
24 ficking.

1 (3) DURATION OF ASSIGNMENT.—An intel-
2 ligence analyst or Special Agent detailed to the Cen-
3 ter under paragraph (1)(E) shall be detailed for a
4 period of not less than two years.

5 (c) FUNDING REIMBURSEMENT.—In operating the
6 Center, the Secretary of Homeland Security shall act in
7 accordance with all applicable requirements of the Econ-
8 omy Act (31 U.S.C. 1535), and shall seek reimbursement
9 from the Attorney General and the Secretary of State, in
10 such amount or proportion as is appropriate, for costs as-
11 sociated with the participation of the Department of Jus-
12 tice and the Department of State in the operation of the
13 Center.

14 (d) DEVELOPMENT OF PLAN.—The Secretary of
15 Homeland Security shall develop a plan for the Center
16 that—

17 (1) defines the roles and responsibilities of each
18 Department participating in the Center;

19 (2) describes how the Department of Homeland
20 Security shall utilize its resources to ensure that the
21 Center uses intelligence to focus and drive its ef-
22 forts;

23 (3) describes the mechanism for the sharing of
24 information from United States Immigration and

1 Customs Enforcement and United States Customs
2 and Border Protection field offices to the Center;

3 (4) describes the mechanism for the sharing of
4 homeland security information from the Center to
5 the Office of Intelligence and Analysis, including
6 how such sharing shall be consistent with section
7 1016(b) of the Intelligence Reform and Terrorism
8 Prevention Act of 2004 (Public Law 108–458);

9 (5) establishes reciprocal security clearance sta-
10 tus to other participating agencies in the Center in
11 order to ensure full access to necessary databases;

12 (6) establishes or consolidates networked sys-
13 tems for the Center; and

14 (7) ensures that the assignment of personnel to
15 the Center from agencies of the Department of
16 Homeland Security is incorporated into the civil
17 service career path of such personnel.

18 (e) MEMORANDUM OF UNDERSTANDING.—The Sec-
19 retary of Homeland Security shall execute with the Attor-
20 ney General a Memorandum of Understanding in order
21 to clarify cooperation and coordination between United
22 States Immigration and Customs Enforcement and the
23 Federal Bureau of Investigation regarding issues related
24 to human smuggling, human trafficking, and terrorist
25 travel.

(f) COORDINATION WITH THE OFFICE OF INTELLIGENCE AND ANALYSIS.—The Office of Intelligence and Analysis, in coordination with the Center, shall submit to Federal, State, local, and tribal law enforcement and other relevant agencies periodic reports regarding terrorist threats related to human smuggling, human trafficking, and terrorist travel.

Subtitle B—International Collaboration to Prevent Terrorist Travel

SEC. 611. REPORT ON INTERNATIONAL COLLABORATION TO INCREASE BORDER SECURITY, ENHANCE GLOBAL DOCUMENT SECURITY, AND EXCHANGE TERRORIST INFORMATION.

(a) REPORT REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Homeland Security, in conjunction with the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report on efforts of the Government of the United States to collaborate with international partners and allies of the United States to increase border security, enhance global document security, and exchange terrorist information.

1 (b) CONTENTS.—The report required by subsection

2 (a) shall outline—

3 (1) all presidential directives, programs, and
4 strategies for carrying out and increasing United
5 States Government efforts described in subsection
6 (a);

7 (2) the goals and objectives of each of these ef-
8 forts;

9 (3) the progress made in each of these efforts;
10 and

11 (4) the projected timelines for each of these ef-
12 forts to become fully functional and effective.

13 (c) DEFINITION.—In this section, the term “appro-
14 priate congressional committees” means—

15 (1) the Committee on Foreign Affairs, the
16 Committee on Homeland Security, the Committee on
17 the Judiciary, and the Permanent Select Committee
18 on Intelligence of the House of Representatives; and

19 (2) the Committee on Foreign Relations, the
20 Committee on Homeland Security and Governmental
21 Affairs, the Committee on the Judiciary, and the Se-
22 lect Committee on Intelligence of the Senate.

1 **Subtitle C—Biometric Border**
2 **Entry and Exit System**

3 **SEC. 621. SUBMITTAL OF PLAN ON BIOMETRIC ENTRY AND**
4 **EXIT VERIFICATION SYSTEM IMPLEMENTA-**
5 **TION.**

6 Not later than 7 days after the date of the enactment
7 of this Act, the Secretary for Homeland Security shall
8 submit to the Committee on Homeland Security and the
9 Committee on the Judiciary and the Committee on Home-
10 land Security and Governmental Affairs and the Com-
11 mittee on the Judiciary of the Senate the plan developed
12 by the Secretary under section 7208(c) of the Intelligence
13 Reform and Terrorism Prevention Act of 2004 (8 U.S.C.
14 1365b(c)(2)) to accelerate the full implementation of an
15 automated biometric entry and exit data system.

1 **TITLE VII—IMPROVING INTEL-**
2 **LIGENCE AND INFORMATION**
3 **SHARING WITH LOCAL LAW**
4 **ENFORCEMENT AND FIRST**
5 **RESPONDERS**

6 **Subtitle A—Fusion and Law En-**
7 **forcement Education and**
8 **Teaming (FLEET) Grant Pro-**
9 **gram**

10 **SEC. 701. FINDINGS.**

11 Congress finds the following:

12 (1) The intelligence component of a State, local,
13 or regional fusion center (in this title referred to
14 generally as “fusion centers”) focuses on the intel-
15 ligence process, in which information is collected, in-
16 tegrated, evaluated, analyzed, and disseminated. The
17 Federal Government and nontraditional sources of
18 intelligence information—such as public safety enti-
19 ties at the State, local, and tribal levels, and private
20 sector organizations—all possess valuable informa-
21 tion that when “fused” with law enforcement data
22 and properly analyzed at fusion centers can provide
23 law enforcement officers with specific and actionable
24 intelligence about terrorist and related criminal ac-
25 tivity.

1 (2) Participation by local and tribal law en-
2 forcement officers and intelligence analysts in fusion
3 centers helps secure the homeland by involving such
4 officers and analysts in the intelligence process on a
5 daily basis, by helping them build professional rela-
6 tionships across every level and discipline of govern-
7 ment and the private sector, and by ensuring that
8 intelligence and other information, including threat
9 assessment, public safety, law enforcement, public
10 health, social service, and public works, is shared
11 throughout and among relevant communities. Such
12 local and tribal participation in fusion centers sup-
13 ports the efforts of all law enforcement agencies and
14 departments to anticipate, identify, monitor, and
15 prevent terrorist and related criminal activity.

16 (3) Some local and tribal law enforcement agen-
17 cies and departments, however, lack resources to
18 participate fully in fusion centers.

19 (4) Needs-based grant funding will maximize
20 the participation of local and tribal law enforcement
21 agencies and departments in fusion centers by re-
22 ducing the costs associated with detailing officers
23 and intelligence analysts to fusion centers. Con-
24 sequently, such grant funding will not only promote
25 the development of more effective, resourceful, and

1 situationally aware fusion centers, but will also ad-
2 vance the cause of homeland security.

3 **SEC. 702. FLEET GRANT PROGRAM.**

4 (a) IN GENERAL.—Subtitle A of title II of the Home-
5 land Security Act of 2002 is further amended by adding
6 at the end the following new section:

7 **“SEC. 203. FLEET GRANT PROGRAM.**

8 “(a) IMPLEMENTATION PLAN AND ESTABLISH-
9 MENT.—

10 “(1) IMPLEMENTATION PLAN.—Not later than
11 90 days after the date of the enactment of the Im-
12 plementing the 9/11 Commission Recommendations
13 Act of 2007, the Secretary shall develop a Fusion
14 and Law Enforcement Education and Teaming
15 Grant Program (in this section referred to as the
16 ‘FLEET Grant program’) implementation plan and
17 submit to the appropriate congressional committees
18 a copy of such plan. In developing such plan, the
19 Secretary shall consult with the Attorney General,
20 the Bureau of Justice Assistance, and the Office of
21 Community Oriented Policing of the Department of
22 Justice and shall encourage the participation of fu-
23 sion centers and local and tribal law enforcement
24 agencies and departments in the development of
25 such plan. Such plan shall include—

1 “(A) a clear articulation of the purposes,
2 goals, and specific objectives for which the pro-
3 gram is being developed;

4 “(B) an identification of program stake-
5 holders and an assessment of their interests in
6 and expectations for the program;

7 “(C) a developed set of quantitative
8 metrics to measure, to the extent possible, pro-
9 gram output; and

10 “(D) a developed set of qualitative instru-
11 ments (e.g., surveys and expert interviews) to
12 assess the extent to which stakeholders believe
13 their needs and expectations are being met by
14 the program.

15 “(2) ESTABLISHMENT.—Not later than 180
16 days after the enactment of the Implementing the 9/
17 11 Commission Recommendations Act of 2007, the
18 Secretary shall implement and carry out a FLEET
19 Grant program under which the Secretary, in con-
20 sultation with the Attorney General, shall make
21 grants to local and tribal law enforcement agencies
22 and departments specified by the Secretary, in con-
23 sultation with the Attorney General, for the pur-
24 poses described in subsection (b). Subject to sub-

1 section (g), each such grant shall be made for a two-
2 year period.

3 “(b) USE OF GRANT AMOUNTS.—

4 “(1) IN GENERAL.—A grant made to a local or
5 tribal law enforcement agency or department under
6 subsection (a) shall be used to enable such agency
7 or department to detail eligible law enforcement per-
8 sonnel to participate in a fusion center that serves
9 the geographic area in which such agency or depart-
10 ment is located, and may be used for the following
11 purposes:

12 “(A) To hire new personnel, or to pay ex-
13 isting personnel, to perform the duties of eligi-
14 ble law enforcement personnel who are detailed
15 to a fusion center during the absence of such
16 detailed personnel.

17 “(B) To provide appropriate training, as
18 determined and required by the Secretary, in
19 consultation with the Attorney General, for eli-
20 gible law enforcement personnel who are de-
21 tailed to a fusion center.

22 “(C) To establish communications
23 connectivity between eligible law enforcement
24 personnel who are detailed to a fusion center
25 and the home agency or department of such

1 personnel in accordance with all applicable laws
2 and regulations.

3 “(2) MANDATORY PRIVACY AND CIVIL LIB-
4 ERTIES TRAINING.—All eligible law enforcement per-
5 sonnel detailed to a fusion center under the FLEET
6 Grant Program shall undergo appropriate privacy
7 and civil liberties training that is developed, sup-
8 ported, or sponsored by the Privacy Officer and the
9 Officer for Civil Rights and Civil Liberties in part-
10 nership with the Privacy and Civil Liberties Over-
11 sight Board.

12 “(3) LIMITATION.—A local or tribal law en-
13 forcement agency or department participating in the
14 FLEET Grant program shall continue to provide a
15 salary and benefits to any eligible law enforcement
16 personnel detailed to a fusion center, in the same
17 amounts and under the same conditions that such
18 agency or department provides a salary and benefits
19 to such personnel when not detailed to a fusion cen-
20 ter. None of the funds provided by the FLEET
21 grant program may be used to carry out this para-
22 graph.

23 “(4) ELIGIBLE LAW ENFORCEMENT PER-
24 SONNEL DEFINED.—For purposes of this section,
25 the term ‘eligible law enforcement personnel’ means

1 any local or tribal law enforcement officer or intel-
2 ligence analyst who meets each eligibility require-
3 ment specified by the Secretary. Such eligibility re-
4 quirements shall include a requirement that the offi-
5 cer or analyst has at least two years of experience
6 as a law enforcement officer or intelligence analyst
7 with the local or tribal law enforcement agency or
8 department selected to participate in the FLEET
9 Grant program.

10 “(c) APPLICATIONS.—

11 “(1) IN GENERAL.—No grant may be made
12 under subsection (a) unless an application for such
13 grant has been submitted to, and approved by, the
14 Secretary, in consultation with the Attorney General.
15 Such an application shall be submitted in such form,
16 manner, and time, and shall contain such informa-
17 tion, as the Secretary, in consultation with the At-
18 torney General, may prescribe by regulation or
19 guidelines.

20 “(2) JOINT APPLICATIONS.—A local or tribal
21 law enforcement agency or department may file a
22 joint grant application to detail eligible law enforce-
23 ment personnel to a fusion center. Such application
24 shall be—

1 “(A) for a single detailed officer or intel-
2 ligence analyst, who shall be detailed to work at
3 a fusion center on a full-time basis; or

4 “(B) in the case of participating local and
5 tribal law enforcement agencies or departments
6 for which a detail arrangement described in
7 subparagraph (A) is likely to result in hardship
8 due to a staffing shortage (as determined by
9 the Secretary, in consultation with the Attorney
10 General), for several eligible law enforcement
11 personnel from multiple local or tribal law en-
12 forcement agencies or departments in the same
13 geographic area, who shall be detailed to a fu-
14 sion center, each on a part-time basis, as part
15 of a shared detail arrangement, as long as—

16 “(i) any hours worked by a detailed
17 officer or analyst at a fusion center in a
18 shared detail arrangement shall be counted
19 toward the hourly shift obligations of such
20 officer or analyst at his or her local or
21 tribal law enforcement agency or depart-
22 ment; and

23 “(ii) no detailed officer or analyst
24 working at a fusion center in a shared de-
25 tail arrangement shall be required to regu-

1 larly work more hours than the officer or
2 analyst would otherwise work if the officer
3 or analyst was not participating in the
4 shared detail arrangement.

5 “(d) DISTRIBUTION OF GRANTS.—In considering ap-
6 plications for grants under subsection (a), the Secretary,
7 in consultation with the Attorney General, shall ensure
8 that, to the extent practicable—

9 “(1) entities that receive such grants are rep-
10 resentative of a broad cross-section of local and trib-
11 al law enforcement agencies and departments;

12 “(2) an appropriate geographic distribution of
13 grants is made among urban, suburban, and rural
14 communities; and

15 “(3) such grants are awarded based on consid-
16 eration of any assessments of risk by the Depart-
17 ment of Homeland Security.

18 “(e) PRIORITY.—The Secretary, in consultation with
19 the Attorney General, shall issue regulations regarding the
20 use of a sliding scale based on financial need to ensure
21 that a local or tribal law enforcement agency or depart-
22 ment that is eligible to receive a grant under subsection
23 (a) and that demonstrates to the satisfaction of the Sec-
24 retary, in consultation with the Attorney General, that it
25 is in financial need (as determined by the Secretary, in

1 consultation with the Attorney General) receives priority
2 in receiving funds under this section.

3 “(f) MATCHING FUNDS.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 the portion of the costs of a program, project, or ac-
6 tivity funded by a grant made to an entity under
7 subsection (a) may not exceed 80 percent.

8 “(2) EXCEPTION.—The Secretary, in consulta-
9 tion with the Attorney General, may waive, wholly or
10 in part, the requirement under paragraph (1) of a
11 non-Federal contribution to the costs of a program,
12 project, or activity if the entity receiving the grant
13 for such program, project, or activity can dem-
14 onstrate to the satisfaction of the Secretary, in con-
15 sultation with the Attorney General, that it would be
16 a hardship for such entity to satisfy such require-
17 ment.

18 “(g) RENEWAL OF GRANTS.—A grant made to a local
19 or tribal law enforcement agency or department under
20 subsection (a) may be renewed on an annual basis for an
21 additional year after the first two-year period during
22 which the entity receives its initial grant, if—

23 “(1) the entity can demonstrate to the satisfac-
24 tion of the Secretary, in consultation with the Attor-
25 ney General, significant progress in achieving the

1 objectives of the application for the initial grant in-
2 volved; and

3 “(2) such renewal would not prevent another
4 local or tribal law enforcement agency or department
5 that has applied for a grant under subsection (a),
6 has not previously received such a grant, and that
7 would otherwise qualify for such a grant, from re-
8 ceiving such a grant, as determined by the Sec-
9 retary, in consultation with the Attorney General.

10 “(h) REVOCATION OR SUSPENSION OF FUNDING.—
11 If the Secretary, in consultation with the Attorney Gen-
12 eral, determines that a grant recipient under this section
13 is not in substantial compliance with the terms and re-
14 quirements of an approved grant application submitted
15 under subsection (c), the Secretary, in consultation with
16 the Attorney General, may revoke or suspend funding of
17 that grant, in whole or in part. In the case of a revocation
18 or suspension of funds under this subsection based on a
19 determination of fraud, waste, or abuse, with respect to
20 a grant recipient, such grant recipient shall be required
21 to refund the grant funds received under subsection (a)
22 that are related to such fraud, waste, or abuse, respec-
23 tively.

24 “(i) REPORTS.—

1 “(1) REPORTS TO SECRETARY.—Each local or
2 tribal law enforcement agency or department that
3 receives a grant under subsection (a) shall submit to
4 the Secretary and the Attorney General a report for
5 each year such agency or department is a recipient
6 of such grant. Each such report shall include a de-
7 scription and evaluation of each program, project, or
8 activity funded by such grant.

9 “(2) REPORT TO CONGRESS.—One year after
10 the date of the implementation of the FLEET grant
11 program, and biannually thereafter, the Secretary,
12 in consultation with the Attorney General, shall sub-
13 mit to the appropriate congressional committees a
14 report describing the implementation and progress
15 of the FLEET Grant Program. Each such report
16 shall include the following:

17 “(A) A list of the local and tribal law en-
18 forcement agencies and departments receiving
19 grants.

20 “(B) Information on the grant amounts
21 awarded to each such agency or department.

22 “(C) Information on the programs,
23 projects, and activities for which the grant
24 funds are used.

1 “(D) An evaluation of the effectiveness of
2 the FLEET Grant program with respect to the
3 cause of advancing homeland security, includ-
4 ing—

5 “(i) concrete examples of enhanced in-
6 formation sharing and a description of any
7 preventative law enforcement actions taken
8 based on such information sharing;

9 “(ii) an evaluation of the effectiveness
10 of the detail arrangements with FLEET
11 Grant program grant recipients;

12 “(iii) an evaluation of how the
13 FLEET Grant program benefits the fusion
14 centers;

15 “(iv) a description of how individual
16 law enforcement officers and intelligence
17 analysts detailed to the fusion centers ben-
18 efit from the detail experience; and

19 “(v) an evaluation of how the detail of
20 the law enforcement officers and intel-
21 ligence analysts assists the fusion centers
22 in learning more about criminal or ter-
23 rorist organizations operating within their
24 areas of operation, including a description
25 of any homeland security information re-

1 quirements that were developed, or any
2 homeland security information gaps that
3 were filled, as a result of the detail ar-
4 rangement.

5 “(E) An analysis of any areas of need,
6 with respect to the advancement of homeland
7 security, that could be addressed through addi-
8 tional funding or other legislative action.

9 “(j) CUSTOMER SATISFACTION SURVEYS.—The Sec-
10 retary, in consultation with the Attorney General, shall
11 create a mechanism for State, local, and tribal law en-
12 forcement officers and intelligence analysts who partici-
13 pate in the FLEET Grant program to fill out an electronic
14 customer satisfaction survey, on an appropriate periodic
15 basis, to assess the effectiveness of the FLEET Grant pro-
16 gram with respect to improving information sharing. The
17 results of these voluntary surveys shall be provided elec-
18 tronically to appropriate personnel at the Office of Grants
19 and Training of the Department and at the Bureau of
20 Justice Assistance and the Office of Community Oriented
21 Policing of the Department of Justice. The results of these
22 customer satisfaction surveys shall also be included in an
23 appropriate format in the reports described in subsection
24 (i).

1 “(k) CONTINUATION ASSESSMENT.—Five years after
2 the date of the implementation of the FLEET Grant pro-
3 gram, the Secretary, in consultation with the Attorney
4 General, shall submit to the appropriate congressional
5 committees a FLEET Grant program continuation assess-
6 ment. Such continuation assessment shall—

7 “(1) recommend whether Congress should con-
8 tinue to authorize and fund the FLEET Grant pro-
9 gram (as authorized under this section or with pro-
10 posed changes), and provide the reasoning for such
11 recommendation; and

12 “(2) if the Secretary recommends the continu-
13 ation of the FLEET Grant program—

14 “(A) recommend any changes to the pro-
15 gram which the Secretary, in consultation with
16 the Attorney General, has identified as nec-
17 essary to improve the program, and the reasons
18 for any such changes;

19 “(B) list and describe legislative priorities
20 for Congress relating to the continuation of the
21 program; and

22 “(C) provide recommendations for the
23 amounts of funding that should be appropriated
24 for the continuation of the program in future

1 fiscal years, including justifications for such
2 amounts.

3 “(l) GENERAL REGULATORY AUTHORITY.—The Sec-
4 retary, in consultation with the Attorney General, may
5 promulgate regulations and guidelines to carry out this
6 section.

7 “(m) DEFINITIONS.—For the purposes of this sec-
8 tion:

9 “(1) The term ‘local law enforcement agency or
10 department’ means a local municipal police depart-
11 ment or a county sheriff’s office in communities
12 where there is no police department.

13 “(2) The term ‘tribal law enforcement agency
14 or department’ means the police force of an Indian
15 tribe (as such term is defined in section 4 of the In-
16 dian Self-Determination and Education Assistance
17 Act (25 U.S.C. 450b)) established and maintained
18 by such a tribe pursuant to the tribe’s powers of
19 self-government to carry out law enforcement.”.

20 “(b) DEFINITION OF FUSION CENTER.—Section 2 of
21 such Act is amended by adding at the end the following
22 new paragraph:

23 “(17) The terms ‘State, local, or regional fusion
24 center’ and ‘fusion center’ mean a State intelligence
25 center or a regional intelligence center that is the

1 product of a collaborative effort of at least two
2 qualifying agencies that provide resources, expertise,
3 or information to such center with the goal of maxi-
4 mizing the ability of such intelligence center and the
5 qualifying agencies participating in such intelligence
6 center to provide and produce homeland security in-
7 formation required to detect, prevent, apprehend,
8 and respond to terrorist and criminal activity. For
9 purposes of the preceding sentence, qualifying agen-
10 cies include—

11 “(A) State, local, and tribal law enforce-
12 ment authorities, and homeland and public
13 safety agencies;

14 “(B) State, local, and tribal entities re-
15 sponsible for the protection of public health and
16 infrastructure;

17 “(C) private sector owners of critical infra-
18 structure, as defined in section 1016(e) of the
19 Uniting and Strengthening America by Pro-
20 viding Appropriate Tools Required to Intercept
21 and Obstruct Terrorism (USA PATRIOT ACT)
22 Act of 2001 (42 U.S.C. 5195c(e));

23 “(D) Federal law enforcement and home-
24 land security entities; and

1 “(E) other appropriate entities specified by
2 the Secretary.”.

3 (c) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of such Act is amended by inserting after
5 the item relating to section 202 the following:

“Sec. 203. FLEET Grant Program.”.

6 **Subtitle B—Border Intelligence**
7 **Fusion Center Program**

8 **SEC. 711. FINDINGS.**

9 Congress finds the following:

10 (1) The United States has 216 airports, 143
11 seaports, and 115 official land border crossings that
12 are official ports of entry. Screening all the people
13 and goods coming through these busy ports is an
14 enormous resource challenge for the men and women
15 of the Department of Homeland Security (“Depart-
16 ment”) .

17 (2) Department personnel, including personnel
18 from the Bureau of Customs and Border Protection
19 (“CBP”) and U.S. Immigration and Customs En-
20 forcement (“ICE”), cannot be everywhere at all
21 times to ensure that terrorists, weapons of mass de-
22 struction, and other related contraband are not
23 being smuggled across the border in order to sup-
24 port attacks against the United States.

1 (3) State, local, and tribal law enforcement per-
2 sonnel are uniquely situated to help secure the bor-
3 der areas in their respective jurisdictions by serving
4 as “force multipliers”. To do so, however, law en-
5 forcement officers need access to available border in-
6 telligence developed by the Department. Such access
7 shall help State, local, and tribal law enforcement
8 personnel deploy their resources most effectively to
9 detect and interdict terrorists, weapons of mass de-
10 struction, and related contraband at United States
11 borders.

12 (4) The Department has not yet developed a
13 single, easily accessible, and widely available system
14 to consistently share border intelligence and other
15 information with its State, local, and tribal law en-
16 forcement partners. It likewise has failed to establish
17 a process by which State, local, and tribal law en-
18 forcement personnel can consistently share with the
19 Department information that they obtain that is rel-
20 evant to border security.

21 (5) As a result, State, local, and tribal law en-
22 forcement personnel serving jurisdictions along the
23 northern and southern borders typically depend
24 upon personal relationships with CBP and ICE per-
25 sonnel in their respective jurisdictions to get the in-

1 formation they need. While personal relationships
2 have helped in some locales, they have not in others.
3 This has led to an inconsistent sharing of border in-
4 telligence from jurisdiction to jurisdiction.

5 (6) State, local, and regional fusion centers
6 (“fusion centers”) may help improve this situation.

7 (7) In the wake of the terrorist attacks of Sep-
8 tember 11, 2001, numerous State, local, and tribal
9 authorities responsible for the protection of the pub-
10 lic and critical infrastructure established fusion cen-
11 ters to help prevent terrorist attacks while at the
12 same time preparing to respond to and recover from
13 a terrorist attack should one occur.

14 (8) Most border States have some variation of
15 a fusion center.

16 (9) In general, while the Federal Government
17 has helped to establish fusion centers through the
18 Department’s grants, a substantial percentage of the
19 financial burden to support ongoing fusion center
20 operations is borne by States and localities.

21 (10) The Department, and in particular, the
22 Department’s Office of Intelligence and Analysis,
23 has undertaken a program through which it sends
24 such office’s personnel to fusion centers to establish
25 a Department presence at those centers. In so doing,

1 the hope is that such personnel will serve as a point
2 of contact for information being shared at fusion
3 centers by State, local, and tribal law enforcement
4 personnel. Personnel at fusion centers hopefully will
5 also act as a channel for information being shared
6 by the Department itself.

7 (11) Border State, local, and tribal law enforce-
8 ment officers anticipate that fusion centers will be a
9 critical source of border intelligence from the De-
10 partment. While the Department's border intel-
11 ligence products generated in the District of Colum-
12 bia and disseminated to fusion centers will undoubt-
13 edly be helpful, a far richer source of border intel-
14 ligence will likely come from CBP and ICE per-
15 sonnel working locally in border jurisdictions them-
16 selves.

17 (12) Establishing a CBP and ICE presence at
18 border State fusion centers will help ensure the most
19 consistent, timely, and relevant flow of border intel-
20 ligence to and from the Department and State, local,
21 and tribal law enforcement in border communities.
22 Border State fusion centers thus could serve as a
23 tool to build upon the personal relationships and in-
24 formation sharing that exists in some, but not all,

1 jurisdictions between CBP, ICE, and State, local,
2 and tribal law enforcement.

3 **SEC. 712. ESTABLISHMENT OF BORDER INTELLIGENCE FU-**
4 **SION CENTER PROGRAM.**

5 (a) IN GENERAL.—Subtitle A of title II of the Home-
6 land Security Act of 2002 (6 U.S.C. 121 et seq.) is further
7 amended by adding at the end the following new section:

8 **“SEC. 204. BORDER INTELLIGENCE FUSION CENTER PRO-**
9 **GRAM.**

10 “(a) ESTABLISHMENT.—

11 “(1) IN GENERAL.—There is established in the
12 Department the Border Intelligence Fusion Center
13 Program, to be administered by the Under Secretary
14 for Intelligence and Analysis, for the purpose of sta-
15 tioning Bureau of Customs and Border Protection
16 and U.S. Immigration and Customs Enforcement of-
17 ficers or intelligence analysts in the fusion centers of
18 participating border States.

19 “(2) NEW HIRES.—Funding provided under the
20 Border Intelligence Fusion Center Program shall be
21 available to hire new CBP and ICE officers or intel-
22 ligence analysts to replace CBP and ICE officers or
23 intelligence analysts who are stationed at border
24 State fusion centers under this section.

25 “(b) PARTICIPATION.—

1 “(1) IN GENERAL.—The Secretary may develop
2 qualifying criteria for a border state fusion center’s
3 participation in the Border Intelligence Fusion Cen-
4 ter Program.

5 “(2) CRITERIA.—Such criteria may include the
6 following:

7 “(A) Whether the center focuses on a
8 broad counterterrorism and counter-criminal
9 approach, and whether that broad approach is
10 pervasive through all levels of the organization.

11 “(B) Whether the center has sufficient
12 numbers of adequately trained personnel to
13 support a broad counterterrorism and counter-
14 criminal mission.

15 “(C) Whether the center has access to rel-
16 evant law enforcement, private sector, open
17 source, and national security data, as well as
18 the ability to share and analytically exploit such
19 data for actionable ends in accordance with all
20 applicable laws and regulations.

21 “(D) The entity or entities providing finan-
22 cial support for the center’s funding.

23 “(E) Whether the center’s leadership is
24 committed to the fusion center’s mission, and
25 how the leadership sees the center’s role in ter-

1 rorism prevention, mitigation, response, and re-
2 covery.

3 “(c) ASSIGNMENT.—Wherever possible, not fewer
4 than one CBP officer or intelligence analyst and one ICE
5 officer or intelligence analyst shall be stationed at each
6 participating border State fusion center.

7 “(d) PREREQUISITE.—

8 “(1) PRIOR WORK EXPERIENCE IN AREA.—To
9 be stationed at a border State fusion center under
10 this section, a CBP or ICE officer shall have served
11 as a CBP or ICE officer in the State in which the
12 fusion center where such officer shall be stationed is
13 located for not less than two years before such as-
14 signment in order to ensure that such officer is fa-
15 miliar with the geography and people living in bor-
16 der communities, as well as the State, local, and
17 tribal law enforcement agencies serving those com-
18 munities.

19 “(2) INTELLIGENCE ANALYSIS, PRIVACY, AND
20 CIVIL LIBERTIES TRAINING.—Before being stationed
21 at a border State fusion center under this section,
22 a CBP or ICE officer shall undergo—

23 “(A) appropriate intelligence analysis
24 training via an intelligence-led policing cur-
25 riculum that is consistent with the standards

1 and recommendations of the National Criminal
2 Intelligence Sharing Plan, the Department of
3 Justice and Department Fusion Center Guide-
4 lines, title 28, part 23, Code of Federal Regula-
5 tions, as well as any other training prescribed
6 by the Under Secretary for Intelligence and
7 Analysis; and

8 “(B) appropriate privacy and civil liberties
9 training that is developed, supported, or spon-
10 sored by the Privacy Officer and the Officer for
11 Civil Rights and Civil Liberties in partnership
12 with the Privacy and Civil Liberties Oversight
13 Board.

14 “(3) EXPEDITED SECURITY CLEARANCE PROC-
15 ESSING.—The Under Secretary for Intelligence and
16 Analysis shall ensure that security clearance proc-
17 essing is expedited for each CBP and ICE officer or
18 intelligence analyst stationed at border State fusion
19 centers under this section and shall ensure that such
20 officer or analyst has the appropriate clearance to
21 conduct the work of the Border Intelligence Fusion
22 Center Program.

23 “(4) FURTHER QUALIFICATIONS.—Each CBP
24 and ICE officer or intelligence analyst stationed at
25 a border State fusion center under this section shall

1 satisfy any other qualifications the Under Secretary
2 for Intelligence and Analysis may prescribe.

3 “(e) RESPONSIBILITIES.—

4 “(1) IN GENERAL.—

5 “(A) CREATION AND DISSEMINATION OF
6 BORDER INTELLIGENCE PRODUCTS.—CBP and
7 ICE officers and intelligence analysts assigned
8 to border State fusion centers under this sec-
9 tion will help State, local, and tribal law en-
10 forcement in jurisdictions along the northern
11 and southern borders, and border State fusion
12 center staff, overlay threat and suspicious activ-
13 ity with Federal homeland security information
14 in order to develop a more comprehensive and
15 accurate threat picture. Such CBP and ICE of-
16 ficers and intelligence analysts accordingly shall
17 have as their primary mission the review of bor-
18 der security-relevant information from State,
19 local, and tribal law enforcement sources, and
20 the creation of border intelligence products de-
21 rived from such information and other border-
22 security relevant information provided by the
23 Department, and the dissemination of such
24 products to border State, local, and tribal law
25 enforcement. CBP and ICE officers or intel-

1 ligence analysts assigned to border State fusion
2 centers under this section shall also provide
3 such products to the Office of Intelligence and
4 Analysis of the Department for collection and
5 dissemination to other fusion centers in other
6 border States.

7 “(B) DATABASE ACCESS.—In order to ful-
8 fill the objectives described in subparagraph
9 (A), CBP and ICE officers and intelligence an-
10 alysts stationed at border State fusion centers
11 under this section shall have direct access to all
12 relevant databases at their respective agencies.

13 “(C) CUSTOMER SATISFACTION SUR-
14 VEYS.—The Secretary shall create a mechanism
15 for State, local, and tribal law enforcement offi-
16 cers who are consumers of the intelligence prod-
17 ucts described in subparagraph (A) to fill out
18 an electronic customer satisfaction survey when-
19 ever they access such a product. The results of
20 these voluntary surveys should be provided elec-
21 tronically to appropriate personnel of the De-
22 partment. The results of these customer satis-
23 faction surveys should also be included in an
24 appropriate format in the annual status reports
25 described in subsection (h)(2)(A).

1 “(2) CULTIVATION OF RELATIONSHIPS.—CBP
2 and ICE officers and intelligence analysts stationed
3 at border State fusion centers under this section
4 shall actively cultivate relationships with State, local,
5 and tribal law enforcement personnel in border com-
6 munities in order to satisfy the mission described in
7 paragraph (1), and shall make similar outreach to
8 Canadian and Mexican law enforcement authorities
9 serving neighboring communities across the northern
10 and southern borders. CBP and ICE officers and in-
11 telligence analysts stationed at border State fusion
12 centers under this section may also serve as a con-
13 duit of border intelligence products from the Depart-
14 ment itself and shall ensure that such products are
15 provided to all appropriate law enforcement agen-
16 cies, departments, and offices in border States.

17 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed to require a border State fusion
19 center to participate in the Border Intelligence Fusion
20 Center Program.

21 “(g) REPORTS.—

22 “(1) DEVELOPMENT OF IMPLEMENTATION
23 PLAN.—

24 “(A) IN GENERAL.—Not later than 90
25 days after the date of the enactment of the Im-

plementing the 9/11 Commission Recommendations Act of 2007, the Secretary shall develop a Border Intelligence Fusion Center Program implementation plan and submit to the appropriate congressional committees a copy of such plan. In developing such plan, the Secretary shall consult with State, local, and tribal authorities responsible for border State fusion centers.

“(B) CONTENTS.—The implementation plan should also address the following elements for effective program assessment:

“(i) A clear articulation of the purposes, goals, and specific objectives for which the program is being developed.

“(ii) An identification of program stakeholders and an assessment of their interests in and expectations of the program.

“(iii) A developed set of quantitative metrics to measure, to the extent possible, program output.

“(iv) A developed set of qualitative instruments (e.g., surveys and expert interviews) to assess the extent to which stake-

1 holders believe their needs and expecta-
2 tions are being met.

3 “(2) STATUS REPORTS AND CONTINUATION AS-
4 SESSMENT.—

5 “(A) STATUS REPORTS.—

6 “(i) IN GENERAL.—The Secretary
7 shall submit to the appropriate congres-
8 sional committees status reports on the
9 Border Intelligence Fusion Center Pro-
10 gram. The reports shall address the ele-
11 ments described in paragraph (1)(B). The
12 reports shall also include the following:

13 “(I) A description of the training
14 programs in place for CBP and ICE
15 officers and intelligence analysts par-
16 ticipating in the program.

17 “(II) A listing of the border
18 State fusion centers where CBP and
19 ICE officers and intelligence analysts
20 are deployed.

21 “(III) A representative survey of
22 State, local, and tribal law enforce-
23 ment officers serving border jurisdic-
24 tions regarding the specificity and ac-
25 tionable nature of the border intel-

1 ligence provided by CBP and ICE of-
2 ficers at such fusion centers.

3 “(IV) A description of the results
4 of the customer satisfaction surveys
5 submitted by users of the products de-
6 scribed in subsection (e)(1).

7 “(ii) DEADLINES.—Status reports
8 under clause (i) shall be submitted not
9 later than—

10 “(I) one year after the date of
11 the enactment of the Implementing
12 the 9/11 Commission Recommenda-
13 tions Act of 2007; and

14 “(II) three and five years after
15 the date on which the Border Intel-
16 ligence Fusion Center Program is es-
17 tablished.

18 “(B) CONTINUATION ASSESSMENT.—Not
19 later than the end of the fifth year following the
20 date on which the Border Intelligence Fusion
21 Center Program is established, the Secretary
22 shall submit to the appropriate congressional
23 committees a Border Intelligence Fusion Center
24 Program Continuation Assessment. The con-

1 tinuation assessment shall accomplish the fol-
2 lowing:

3 “(i) Recommend whether the program
4 should continue in its present or some al-
5 tered form or not.

6 “(ii) Provide the reasons for that rec-
7 ommendation.

8 “(iii) If the recommendation is that
9 the program should continue, list and de-
10 scribe legislative priorities for Congress re-
11 garding the continuation of the program,
12 and provide recommended appropriations
13 amounts and justifications for them.

14 “(h) DEFINITION OF BORDER STATE FUSION CEN-
15 TER.—The term ‘border State fusion center’ means a fu-
16 sion center located in the State of Washington, Idaho,
17 Montana, North Dakota, Minnesota, Wisconsin, Michigan,
18 Ohio, Pennsylvania, New York, Vermont, New Hampshire,
19 Maine, California, Arizona, New Mexico, or Texas.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of such Act is amended by inserting after
22 the item relating to section 203 the following:

“Sec. 204. Border Intelligence Fusion Center Program.”.

1 **Subtitle C—Homeland Security**
2 **Information Sharing Enhancement**

3 **SEC. 721. SHORT TITLE.**

4 This subtitle may be cited as the “Homeland Security
5 Information Sharing Enhancement Act of 2007”.

6 **SEC. 722. HOMELAND SECURITY ADVISORY SYSTEM.**

7 (a) IN GENERAL.—Subtitle A of title II of the Home-
8 land Security Act of 2002 (6 U.S.C. 121 et seq.) is amend-
9 ed by adding at the end the following:

10 **“SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.**

11 “(a) REQUIREMENT.—The Under Secretary for Intel-
12 ligence and Analysis shall implement a Homeland Security
13 Advisory System in accordance with this section to provide
14 public advisories and alerts regarding threats to homeland
15 security, including national, regional, local, and economic
16 sector advisories and alerts, as appropriate.

17 “(b) REQUIRED ELEMENTS.—The Under Secretary,
18 under the System—

19 “(1) shall include, in each advisory and alert re-
20 garding a threat, information on appropriate protec-
21 tive measures and countermeasures that may be
22 taken in response to the threat;

23 “(2) shall, whenever possible, limit the scope of
24 each advisory and alert to a specific region, locality,
25 or economic sector believed to be at risk; and

1 “(3) shall not, in issuing any advisory or alert,
2 use color designations as the exclusive means of
3 specifying the homeland security threat conditions
4 that are the subject of the advisory or alert.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of such Act is amended by adding at the
7 end of the items relating to subtitle A of title II the fol-
8 lowing:

 “Sec. 205. Homeland Security Advisory System.”.

9 **SEC. 723. HOMELAND SECURITY INFORMATION SHARING.**

10 (a) IN GENERAL.—Subtitle A of title II of the Home-
11 land Security Act of 2002 (6 U.S.C. 121 et seq.) is further
12 amended by adding at the end the following:

13 **“SEC. 206. HOMELAND SECURITY INFORMATION SHARING.**

14 “(a) INFORMATION SHARING ENVIRONMENT.—Con-
15 sistent with section 1016 of the National Intelligence Re-
16 form and Terrorism Prevention Act of 2004 (6 U.S.C.
17 485) and in accordance with all other applicable laws and
18 regulations, the Secretary shall integrate and standardize
19 the information of the intelligence components of the De-
20 partment into a Department information sharing environ-
21 ment, to be administered by the Under Secretary for Intel-
22 ligence and Analysis.

23 “(b) INFORMATION SHARING AND KNOWLEDGE
24 MANAGEMENT OFFICERS.—For each intelligence compo-
25 nent of the Department, the Secretary shall designate an

1 information sharing and knowledge management officer
2 who shall report to the Under Secretary for Intelligence
3 and Analysis with respect to coordinating the different
4 systems used in the Department to gather and disseminate
5 homeland security information.

6 “(c) STATE, LOCAL, AND PRIVATE-SECTOR SOURCES
7 OF INFORMATION.—

8 “(1) ESTABLISHMENT OF BUSINESS PROC-
9 ESSES.—The Under Secretary for Intelligence and
10 Analysis shall establish Department-wide procedures
11 for the review and analysis of information gathered
12 from State, local, tribal, and private-sector sources
13 and, as appropriate, integrate such information into
14 the information gathered by the Department and
15 other department and agencies of the Federal Gov-
16 ernment.

17 “(2) FEEDBACK.—The Secretary shall develop
18 mechanisms to provide analytical and operational
19 feedback to any State, local, tribal, and private-sec-
20 tor entities that gather information and provide such
21 information to the Secretary.

22 “(d) TRAINING AND EVALUATION OF EMPLOYEES.—

23 “(1) TRAINING.—The Under Secretary shall
24 provide to employees of the Department opportuni-
25 ties for training and education to develop an under-

1 standing of the definition of homeland security infor-
2 mation, how information available to them as part of
3 their duties might qualify as homeland security in-
4 formation, and how information available to them is
5 relevant to the Office of Intelligence and Analysis.

6 “(2) EVALUATIONS.—The Under Secretary
7 shall, on an ongoing basis, evaluate how employees
8 of the Office of Intelligence and Analysis and the in-
9 telligence components of the Department are uti-
10 lizing homeland security information and partici-
11 pating in the Department information sharing envi-
12 ronment.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 in section 1(b) of such Act is further amended by adding
15 at the end of the items relating to such subtitle the fol-
16 lowing:

“Sec. 206. Homeland security information sharing.”.

17 (c) ESTABLISHMENT OF COMPREHENSIVE INFORMA-
18 TION TECHNOLOGY NETWORK ARCHITECTURE.—

19 (1) IN GENERAL.—Subtitle A of title II of the
20 Homeland Security Act of 2002 (6 U.S.C. 121 et
21 seq.) is further amended by adding at the end the
22 following new section:

1 **“SEC. 207. COMPREHENSIVE INFORMATION TECHNOLOGY**
2 **NETWORK ARCHITECTURE.**

3 “(a) ESTABLISHMENT.—The Secretary, acting
4 through the Chief Intelligence Officer, shall establish a
5 comprehensive information technology network architec-
6 ture for the Office of Intelligence and Analysis.

7 “(b) NETWORK MODEL.—The comprehensive infor-
8 mation technology network architecture established under
9 subsection (a) shall, to the extent possible, incorporate the
10 approaches, features, and functions of the network pro-
11 posed by the Markle Foundation in reports issued in Octo-
12 ber 2002 and December 2003, known as the System-wide
13 Homeland Security Analysis and Resource Exchange
14 (SHARE) Network.

15 “(c) COMPREHENSIVE INFORMATION TECHNOLOGY
16 NETWORK ARCHITECTURE DEFINED.—the term ‘com-
17 prehensive information technology network architecture’
18 means an integrated framework for evolving or maintain-
19 ing existing information technology and acquiring new in-
20 formation technology to achieve the strategic goals and in-
21 formation resources management goals of the Office of In-
22 telligence and Analysis.”.

23 (2) CLERICAL AMENDMENT.—The table of con-
24 tents in section 1(b) of such Act is further amended

1 by adding at the end of the items relating to such
2 subtitle the following:

“Sec. 207. Comprehensive information technology network architecture.”.

3 (3) REPORTS.—

4 (A) REPORT ON IMPLEMENTATION OF
5 PLAN.—Not later than 360 days after the date
6 of the enactment of this Act, the Secretary of
7 Homeland Security shall submit to the Com-
8 mittee on Homeland Security and Govern-
9 mental Affairs of the Senate and the Committee
10 on Homeland Security of the House of Rep-
11 resentatives a report containing a plan to imple-
12 ment the comprehensive information technology
13 network architecture for the Office of Intel-
14 ligence and Analysis of the Department of
15 Homeland Security required under section 205
16 of the Homeland Security Act of 2002, as
17 added by paragraph (1). Such report shall in-
18 clude the following:

19 (i) Priorities for the development of
20 the comprehensive information technology
21 network architecture and a rationale for
22 such priorities.

23 (ii) An explanation of how the various
24 components of the comprehensive informa-

1 tion technology network architecture will
2 work together and interconnect.

3 (iii) A description of the technology
4 challenges that the Office of Intelligence
5 and Analysis will face in implementing the
6 comprehensive information technology net-
7 work architecture.

8 (iv) A description of technology op-
9 tions that are available or are in develop-
10 ment that may be incorporated into the
11 comprehensive technology network archi-
12 tecture, the feasibility of incorporating
13 such options, and the advantages and dis-
14 advantages of doing so.

15 (v) An explanation of any security
16 protections to be developed as part of the
17 comprehensive information technology net-
18 work architecture.

19 (vi) A description of any safeguards
20 for civil liberties and privacy to be built
21 into the comprehensive information tech-
22 nology network architecture.

23 (vii) An operational best practices
24 plan.

1 (B) PROGRESS REPORT.—Not later than
2 180 days after the date on which the report is
3 submitted under subparagraph (A), the Sec-
4 retary of Homeland Security shall submit to the
5 Committee on Homeland Security and Govern-
6 mental Affairs of the Senate and the Committee
7 on Homeland Security of the House of Rep-
8 resentatives a report on the progress of the Sec-
9 retary in developing the comprehensive informa-
10 tion technology network architecture required
11 under section 205 of the Homeland Security
12 Act of 2002, as added by paragraph (1).

13 (d) INTELLIGENCE COMPONENT DEFINED.—Section
14 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)
15 is further amended by adding at the end the following new
16 paragraph:

17 “(18) The term ‘intelligence component of the
18 Department’ means any directorate, agency, or ele-
19 ment of the Department that gathers, receives, ana-
20 lyzes, produces, or disseminates homeland security
21 information except—

22 “(A) a directorate, agency, or element of
23 the Department that is required to be main-
24 tained as a distinct entity under this Act; or

1 “(B) any personnel security, physical secu-
2 rity, document security, or communications se-
3 curity program within any directorate, agency,
4 or element of the Department.”.

5 **Subtitle D—Homeland Security**
6 **Information Sharing Partnerships**

7 **SEC. 731. SHORT TITLE.**

8 This subtitle may be cited as the “Homeland Security
9 Information Sharing Partnerships Act of 2007”.

10 **SEC. 732. STATE, LOCAL, AND REGIONAL INFORMATION FU-**
11 **SION CENTER INITIATIVE.**

12 (a) IN GENERAL.—Subtitle A of title II of the Home-
13 land Security Act of 2002 (6 U.S.C. 121 et seq.) is further
14 is amended by adding at the end the following:

15 **“SEC. 208. STATE, LOCAL, AND REGIONAL FUSION CENTER**
16 **INITIATIVE.**

17 “(a) ESTABLISHMENT.—The Secretary shall estab-
18 lish a State, Local, and Regional Fusion Center Initiative
19 to establish partnerships with State, local, and regional
20 fusion centers.

21 “(b) DUTIES.—Through the State, Local, and Re-
22 gional Fusion Center Initiative, the Secretary shall—

23 “(1) coordinate with the principal official of
24 each State, local, or regional fusion center and the

1 official designated as the Homeland Security Advisor
2 of the State;

3 “(2) provide Department operational and intel-
4 ligence advice and assistance to State, local, and re-
5 gional fusion centers;

6 “(3) support efforts to include State, local, and
7 regional fusion centers into efforts to establish an
8 information sharing environment (as defined under
9 section 1016(a)(2) of the Intelligence Reform and
10 Terrorism Prevention Act of 2004 (6 U.S.C.
11 485(a)(2))) in accordance with all applicable laws
12 and regulations;

13 “(4) conduct table-top and live training exer-
14 cises to regularly assess the capability of individual
15 and regional networks of State, local, and regional
16 fusion centers to integrate the efforts of such net-
17 works with the efforts of the Department;

18 “(5) coordinate with other relevant Federal en-
19 tities engaged in homeland security-related activities;

20 “(6) provide analytic and reporting advice and
21 assistance to State, local, and regional fusion cen-
22 ters;

23 “(7) review homeland security information
24 gathered by State, local, and regional fusion centers

1 and incorporate relevant information with homeland
2 security information of the Department;

3 “(8) provide management assistance to State,
4 local, and regional fusion centers;

5 “(9) serve as a point of contact to ensure the
6 dissemination of relevant homeland security informa-
7 tion.

8 “(10) facilitate close communication and coordi-
9 nation between State, local, and regional fusion cen-
10 ters and the Department;

11 “(11) provide State, local, and regional fusion
12 centers with expertise on Department resources and
13 operations;

14 “(12) provide training to State, local, and re-
15 gional fusion centers and encourage such fusion cen-
16 ters to participate in terrorist threat-related exer-
17 cises conducted by the Department; and

18 “(13) carry out such other duties as the Sec-
19 retary determines are appropriate.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of such Act is further amended by adding
22 at the end of the items relating to such subtitle the fol-
23 lowing:

“Sec. 208. State, Local, and Regional Information Fusion Center Initiative.”.

24 (c) REPORTS.—

1 (1) CONCEPT OF OPERATIONS.—Not later than
2 90 days after the date of the enactment of this Act
3 and before the State, Local, and Regional Fusion
4 Center Initiative under section 208 of the Homeland
5 Security Act of 2002, as added by subsection (a),
6 has been implemented, the Secretary shall submit to
7 the Committee on Homeland Security and Govern-
8 mental Affairs of the Senate and the Committee on
9 Homeland Security of the House of Representatives
10 a report that contains a concept of operations for
11 the Initiative, which shall include a privacy and civil
12 liberties impact assessment.

13 (2) PRIVACY AND CIVIL LIBERTIES.—

14 (A) REVIEW OF CONCEPT OF OPER-
15 ATIONS.—Not later than 180 days after the
16 date on which the report under paragraph (1)
17 is submitted, the Privacy Officer of the Depart-
18 ment of Homeland Security and the Officer for
19 Civil Rights and Civil Liberties of the Depart-
20 ment of Homeland Security shall review the pri-
21 vacy and civil liberties implications of the Ini-
22 tiative and the concept of operations and report
23 any concerns to the Secretary of Homeland Se-
24 curity and the Under Secretary of Homeland
25 Security for Intelligence and Analysis. The Sec-

1 retary may not implement the Initiative until
2 the Privacy Officer and the Officer for Civil
3 Rights and Civil Liberties have certified that
4 any privacy or civil liberties concerns have been
5 addressed.

6 (B) REVIEW OF PRIVACY IMPACT.—Under
7 the authority of section 222(5) of the Home-
8 land Security Act of 2002 (6 U.S.C. 142(5)),
9 not later than one year after the date on which
10 the State, Local, and Regional Fusion Center
11 Initiative is implemented, the Privacy Officer of
12 the Department of Homeland Security, in con-
13 sultation with the Officer for Civil Rights and
14 Civil Liberties of the Department of Homeland
15 Security, shall submit to Congress, the Sec-
16 retary of Homeland Security, and the Under
17 Secretary of Homeland Security for Intelligence
18 and Analysis a report on the privacy and civil
19 liberties impact of the Initiative.

20 **SEC. 733. HOMELAND SECURITY INFORMATION SHARING**
21 **FELLOWS PROGRAM.**

22 (a) ESTABLISHMENT OF PROGRAM.—Subtitle A of
23 title II of the Homeland Security Act of 2002 (6 U.S.C.
24 121 et seq.) is further amended by adding at the end the
25 following:

1 **“SEC. 209. HOMELAND SECURITY INFORMATION SHARING**
2 **FELLOWS PROGRAM.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—The Secretary, acting
5 through the Under Secretary for Intelligence and
6 Analysis, shall establish a fellowship program in ac-
7 cordance with this section for the purpose of—

8 “(A) detailing State, local, and tribal law
9 enforcement officers and intelligence analysts to
10 the Department to participate in the work of
11 the Office of Intelligence and Analysis in order
12 to become familiar with—

13 “(i) the mission and capabilities of the
14 Office of Intelligence and Analysis; and

15 “(ii) the role, programs, products, and
16 personnel of the Office of Intelligence and
17 Analysis; and

18 “(B) promoting information sharing be-
19 tween the Department and State, local, and
20 tribal law enforcement officers and intelligence
21 analysts by stationing such officers and ana-
22 lysts in order to—

23 “(i) serve as a point of contact in the
24 Department to assist in the representation
25 of State, local, and tribal homeland secu-
26 rity information needs;

1 “(ii) identify homeland security infor-
2 mation of interest to State, local, and trib-
3 al law enforcement officers and intelligence
4 analysts; and

5 “(iii) assist Department analysts in
6 preparing and disseminating terrorism-re-
7 lated products that are tailored to State,
8 local, and tribal law enforcement officers
9 and intelligence analysts and designed to
10 thwart terrorist attacks.

11 “(2) PROGRAM NAME.—The program under
12 this section shall be known as the ‘Homeland Secu-
13 rity Information Sharing Fellows Program’.

14 “(b) ELIGIBILITY.—

15 “(1) IN GENERAL.—In order to be eligible for
16 selection as an Information Sharing Fellow under
17 the program, an individual must—

18 “(A) have homeland security-related re-
19 sponsibilities or law enforcement-related respon-
20 sibilities;

21 “(B) be eligible for an appropriate national
22 security clearance;

23 “(C) possess a valid need for access to
24 classified information, as determined by the
25 Under Secretary for Intelligence and Analysis;

1 “(D) be an employee of an eligible entity;
2 and

3 “(E) have undergone appropriate privacy
4 and civil liberties training that is developed,
5 supported, or sponsored by the Privacy Officer
6 and the Officer for Civil Rights and Civil Lib-
7 erties in partnership with the Privacy and Civil
8 Liberties Oversight Board.

9 “(2) ELIGIBLE ENTITIES.—For purposes of this
10 subsection, the term ‘eligible entity’ means—

11 “(A) a State, local, or regional fusion cen-
12 ter;

13 “(B) a State or local law enforcement or
14 other government entity that serves a major
15 metropolitan area, as determined by the Sec-
16 retary;

17 “(C) a State or local law enforcement or
18 other government entity that serves a suburban
19 or rural area, as determined by the Secretary;

20 “(D) a State or local law enforcement or
21 other government entity with port responsibil-
22 ities, as determined by the Secretary;

23 “(E) a State or local law enforcement or
24 other government entity with border responsibil-
25 ities, as determined by the Secretary;

1 “(F) a State or local law enforcement or
2 other government entity with agricultural re-
3 sponsibilities, as determined by the Secretary;

4 “(G) a tribal law enforcement or other au-
5 thority; or

6 “(H) such other entity as the Secretary de-
7 termines is appropriate.

8 “(c) OPTIONAL PARTICIPATION.—No State, local, or
9 tribal law enforcement or other government entity shall
10 be required to participate in the Homeland Security Infor-
11 mation Sharing Fellows Program.

12 “(d) PROCEDURES FOR NOMINATION AND SELEC-
13 TION.—

14 “(1) IN GENERAL.—The Under Secretary shall
15 establish procedures to provide for the nomination
16 and selection of individuals to participate in the
17 Homeland Security Information Sharing Fellows
18 Program.

19 “(2) LIMITATIONS.—The Under Secretary
20 shall—

21 “(A) select law enforcement officers and
22 intelligence analysts representing a broad cross-
23 section of State, local, and tribal agencies; and

24 “(B) ensure that the number of Informa-
25 tion Sharing Fellows selected does not impede

1 the activities of the Office of Intelligence and
2 Analysis.

3 “(e) LENGTH OF SERVICE.—Information Sharing
4 Fellows shall serve for a reasonable period of time, as de-
5 termined by the Under Secretary. Such period of time
6 shall be sufficient to advance the information-sharing
7 goals of the Under Secretary and encourage participation
8 by as many qualified nominees as possible.

9 “(f) CONDITION.—As a condition of selecting an indi-
10 vidual as an Information Sharing Fellow under the pro-
11 gram, the Under Secretary shall require that the individ-
12 ual’s employer agree to continue to pay the individual’s
13 salary and benefits during the period for which the indi-
14 vidual is detailed.

15 “(g) STIPEND.—During the period for which an indi-
16 vidual is detailed under the program, the Under Secretary
17 shall, subject to the availability of appropriations provide
18 to the individual a stipend to cover the individual’s reason-
19 able living expenses for that period.

20 “(h) SECURITY CLEARANCES.—If an individual se-
21 lected for a fellowship under the Information Sharing Fel-
22 lows Program does not possess the appropriate security
23 clearance, the Under Secretary shall ensure that security
24 clearance processing is expedited for such individual and
25 shall ensure that each such Information Sharing Fellow

1 has obtained the appropriate security clearance prior to
2 participation in the Program.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of such Act is further amended by adding
5 at the end of the items relating to such subtitle the fol-
6 lowing:

“Sec. 209. Homeland Security Information Sharing Fellows Program.”.

7 (c) REPORTS.—

8 (1) CONCEPT OF OPERATIONS.—Not later than
9 90 days after the date of the enactment of this Act
10 and before the implementation of the Homeland Se-
11 curity Information Sharing Fellows Program under
12 section 209 of the Homeland Security Act of 2002,
13 as added by subsection (a), the Secretary shall sub-
14 mit to the Committee on Homeland Security and
15 Governmental Affairs of the Senate and the Com-
16 mittee on Homeland Security of the House of Rep-
17 resentatives a report that contains a concept of oper-
18 ations for the Program, which shall include a privacy
19 and civil liberties impact assessment.

20 (2) PRIVACY AND CIVIL LIBERTIES.—

21 (A) REVIEW OF CONCEPT OF OPER-
22 ATIONS.—Not later than 180 days after the
23 date on which the report under paragraph (1)
24 is submitted, the Privacy Officer of the Depart-
25 ment of Homeland Security and the Officer for

1 Civil Rights and Civil Liberties of the Depart-
2 ment of Homeland Security shall review the pri-
3 vacy and civil liberties implications of the Pro-
4 gram and the concept of operations and report
5 any concerns to the Secretary of Homeland Se-
6 curity and the Under Secretary of Homeland
7 Security for Intelligence and Analysis. The Sec-
8 retary may not implement the Program until
9 the Privacy Officer and the Officer for Civil
10 Rights and Civil Liberties have certified that
11 any privacy or civil liberties concerns have been
12 addressed.

13 (B) REVIEW OF PRIVACY IMPACT.—Under
14 the authority of section 222(5) of the Home-
15 land Security Act of 2002 (6 U.S.C. 142(5)),
16 not later than one year after the date on which
17 the Homeland Security Information Sharing
18 Fellows Program is implemented, the Privacy
19 Officer of the Department of Homeland Secu-
20 rity, in consultation with the Officer for Civil
21 Rights and Civil Liberties of the Department of
22 Homeland Security, shall submit to Congress,
23 the Secretary of Homeland Security, and the
24 Under Secretary of Homeland Security for In-

1 telligence and Analysis a report on the privacy
2 and civil liberties impact of the Program.

3 **Subtitle E—Homeland Security**
4 **Intelligence Offices Reorganization**

5 **SEC. 741. DEPARTMENTAL REORGANIZATION.**

6 (a) REDESIGNATION OF DIRECTORATE FOR INFOR-
7 MATION ANALYSIS AND INFRASTRUCTURE PROTEC-
8 TION.—Section 201 of the Homeland Security Act of 2002
9 (6 U.S.C. 121) is amended—

10 (1) in subsection (a)(1)—

11 (A) by striking “a Directorate for Informa-
12 tion Analysis and Infrastructure Protection”
13 and inserting “an Office of Intelligence and
14 Analysis”; and

15 (B) by striking “an Under Secretary for
16 Information Analysis and Infrastructure Pro-
17 tection” and inserting “an Under Secretary for
18 Intelligence and Analysis”;

19 (2) by striking subsection (b) and redesignating
20 subsections (c) through (g) as subsections (b)
21 through (f), respectively;

22 (3) in subsection (b), as so redesignated—

23 (A) by striking “and infrastructure protec-
24 tion” before “are carried out” and inserting
25 “and intelligence”; and

1 (B) by striking “the Under Secretary for
2 Information Analysis and Infrastructure Pro-
3 tection” and inserting “the Under Secretary for
4 Intelligence and Analysis”;

5 (4) in subsection (c), as so redesignated—

6 (A) by striking “the Under Secretary for
7 Information Analysis and Infrastructure Pro-
8 tection” and inserting “the Under Secretary for
9 Intelligence and Analysis”;

10 (B) by striking paragraphs (2), (5), and
11 (6), and redesignating paragraphs (3) through
12 (17) as paragraphs (2) through (14), respec-
13 tively;

14 (C) by redesignating paragraphs (18) and
15 (19) as paragraphs (20) and (21), respectively;

16 (D) in paragraph (2), as so redesignated,
17 by striking “To integrate” and inserting “To
18 participate in the integration of”;

19 (E) in paragraph (14), as so redesignated,
20 by inserting “the Assistant Secretary for Infra-
21 structure Protection and” after “coordinate
22 with”; and

23 (F) by inserting after paragraph (14), as
24 redesignated by subparagraph (B), the fol-
25 lowing new paragraphs:

1 “(15) To coordinate and enhance integration
2 among intelligence components of the Department.

3 “(16) To establish intelligence priorities, poli-
4 cies, processes, standards, guidelines, and procedures
5 for the Department.

6 “(17) To establish a structure and process to
7 support the missions and goals of the intelligence
8 components of the Department.

9 “(18) To ensure that, whenever possible—

10 “(A) the Under Secretary for Intelligence
11 and Analysis produces and disseminates reports
12 and analytic products based on open-source in-
13 formation that do not require a national secu-
14 rity classification under applicable law; and

15 “(B) such unclassified open source reports
16 are produced and disseminated contempora-
17 neously with reports or analytic products con-
18 cerning the same or similar information that
19 the Under Secretary for Intelligence and Anal-
20 ysis produces and disseminates in a classified
21 format.

22 “(19) To establish within the Office of Intel-
23 ligence Analysis an Internal Continuity of Oper-
24 ations (COOP) Plan that—

1 “(A) assures that the capability exists to
2 continue uninterrupted operations during a
3 wide range of potential emergencies, including
4 localized acts of nature, accidents, and techno-
5 logical or attack-related emergencies, that is
6 maintained at a high level of readiness and is
7 capable of implementation with and without
8 warning; and

9 “(B) includes plans and procedures gov-
10 erning succession to office within the Office of
11 Intelligence and Analysis, including—

12 “(i) emergency delegations of author-
13 ity (where permissible, and in accordance
14 with applicable law);

15 “(ii) the safekeeping of vital re-
16 sources, facilities, and records;

17 “(iii) the improvisation or emergency
18 acquisition of vital resources necessary for
19 the performance of operations of the Of-
20 fice; and

21 “(iv) the capability to relocate essen-
22 tial personnel and functions to and to sus-
23 tain the performance of the operations of
24 the Office at an alternate work site until
25 normal operations can be resumed.”;

1 (5) in subsections (d) and (e), as redesignated
2 by subsection (a)(2), by striking “Directorate” each
3 place it appears and inserting “Office”; and

4 (6) in subsection (f), as redesignated by sub-
5 section (a)(2)—

6 (A) by striking “the Under Secretary for
7 Information Analysis and Infrastructure Pro-
8 tection” and inserting “the Under Secretary for
9 Intelligence and Analysis and the Assistant Sec-
10 retary for Infrastructure Protection”; and

11 (B) by inserting “and section 203” after
12 “under this section”.

13 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) HOMELAND SECURITY ACT OF 2002.—The
15 Homeland Security Act of 2002 (6 U.S.C. 101 et
16 seq.) is amended—

17 (A) in section 103(a), by adding at the end
18 the following new paragraph:

19 “(10) An Under Secretary for Intelligence and
20 Analysis.”;

21 (B) in section 223, by striking “Under
22 Secretary for Information Analysis and Infra-
23 structure Protection” and inserting “Under
24 Secretary for Intelligence and Analysis, in co-

1 operation with the Assistant Secretary for In-
2 frastructure Protection”;

3 (C) in section 224, by striking “Under
4 Secretary for Information Analysis and Infra-
5 structure Protection” and inserting “Assistant
6 Secretary for Infrastructure Protection”; and

7 (D) in section 302(3), by striking “Under
8 Secretary for Information Analysis and Infra-
9 structure Protection” and inserting “Under
10 Secretary for Intelligence and Analysis and the
11 Assistant Secretary for Infrastructure Protec-
12 tion”.

13 (2) HEADINGS.—

14 (A) SECTION 201.—The heading for sec-
15 tion 201 of such Act is amended to read as fol-
16 lows:

17 **“SEC. 201. OFFICE OF INTELLIGENCE AND ANALYSIS.”.**

18 (B) SECTION 201(a).—The heading for
19 subsection (a) of section 201 of such Act is
20 amended to read as follows:

21 “(a) UNDER SECRETARY OF HOMELAND SECURITY
22 FOR INTELLIGENCE AND ANALYSIS.—”.

23 (C) SECTION 201(b).—The heading for
24 subsection (b) of section 201 of such Act, as re-

1 designated by subsection (a)(2), is amended to
2 read as follows:

3 “(b) DISCHARGE OF INTELLIGENCE AND ANAL-
4 YSIS.—”.

5 (3) NATIONAL SECURITY ACT OF 1947.—Section
6 106(b)(2)(I) of the National Security Act of 1947
7 (50 U.S.C. 403–6) is amended to read as follows:

8 “(I) The Under Secretary for Intelligence
9 and Analysis of the Department of Homeland
10 Security.”.

11 (4) INTELLIGENCE REFORM AND TERRORISM
12 PREVENTION ACT OF 2004.—Section 7306(a)(1) of
13 the Intelligence Reform and Terrorism Prevention
14 Act of 2004 (Public Law 108–458; 118 Stat. 3848)
15 is amended by striking “Under Secretary for Infor-
16 mation Analysis and Infrastructure Protection” and
17 inserting “Under Secretary for Intelligence and
18 Analysis”.

19 **SEC. 742. INTELLIGENCE COMPONENTS OF DEPARTMENT**
20 **OF HOMELAND SECURITY.**

21 (a) RESPONSIBILITIES.—Subtitle A of title II of the
22 Homeland Security Act of 2002 (6 U.S.C. 201 et seq.)
23 is further amended by adding at the end the following new
24 section:

1 **“SEC. 210. INTELLIGENCE COMPONENTS.**

2 “(a) RESPONSIBILITIES.—Subject to the direction
3 and control of the Secretary, the responsibilities of the
4 head of each intelligence component of the Department
5 are as follows:

6 “(1) To ensure that duties related to the acqui-
7 sition, analysis, and dissemination of homeland secu-
8 rity information are carried out effectively and effi-
9 ciently in support of the Under Secretary for Intel-
10 ligence and Analysis.

11 “(2) To support and implement the goals estab-
12 lished in cooperation with the Under Secretary for
13 Intelligence and Analysis.

14 “(3) To incorporate the input of the Under Sec-
15 retary for Intelligence and Analysis with respect to
16 performance appraisals, bonus or award rec-
17 ommendations, pay adjustments, and other forms of
18 commendation.

19 “(4) To coordinate with the Under Secretary
20 for Intelligence and Analysis in the recruitment and
21 selection of intelligence officials of the intelligence
22 component.

23 “(5) To advise and coordinate with the Under
24 Secretary for Intelligence and Analysis on any plan
25 to reorganize or restructure the intelligence compo-

1 nent that would, if implemented, result in realign-
2 ments of intelligence functions.

3 “(6) To ensure that employees of the intel-
4 ligence component have knowledge of and comply
5 with the programs and policies established by the
6 Under Secretary for Intelligence and Analysis and
7 other appropriate officials of the Department and
8 that such employees comply with all applicable laws
9 and regulations.

10 “(7) To perform such other duties relating to
11 such responsibilities as the Secretary may provide.

12 “(b) TRAINING OF EMPLOYEES.—The Secretary
13 shall provide training and guidance for employees, offi-
14 cials, and senior executives of the intelligence components
15 of the Department to develop knowledge of laws, regula-
16 tions, operations, policies, procedures, and programs that
17 are related to the functions of the Department relating
18 to the handling, analysis, dissemination, and acquisition
19 of homeland security information.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of such Act is further amended by adding
22 at the end of the items relating to such subtitle the fol-
23 lowing:

 “Sec. 210. Intelligence components.”.

1 **SEC. 743. OFFICE OF INFRASTRUCTURE PROTECTION.**

2 (a) ESTABLISHMENT.—Subtitle A of title II of the
3 Homeland Security Act of 2002 (6 U.S.C. 201 et seq.)
4 is further amended by adding at the end the following new
5 section:

6 **“SEC. 210A. OFFICE OF INFRASTRUCTURE PROTECTION.**

7 “(a) ASSISTANT SECRETARY FOR INFRASTRUCTURE
8 PROTECTION.—

9 “(1) IN GENERAL.—There shall be in the De-
10 partment an Office of Infrastructure Protection
11 headed by an Assistant Secretary for Infrastructure
12 Protection.

13 “(2) RESPONSIBILITIES.—The Assistant Sec-
14 retary shall assist the Secretary in discharging the
15 responsibilities assigned by the Secretary.

16 “(b) DISCHARGE OF INFRASTRUCTURE PROTEC-
17 TION.—The Secretary shall ensure that the responsibilities
18 of the Department regarding infrastructure protection are
19 carried out through the Assistant Secretary for Infrastruc-
20 ture Protection.

21 “(c) RESPONSIBILITIES OF ASSISTANT SEC-
22 RETARY.—Subject to the direction and control of the Sec-
23 retary, the responsibilities of the Assistant Secretary for
24 Infrastructure Protection shall be as follows:

25 “(1) To carry out comprehensive assessments of
26 the vulnerabilities of the key resources and critical

1 infrastructure of the United States, including the
2 performance of risk assessments to determine the
3 risks posed by particular types of terrorist attacks
4 within the United States (including an assessment of
5 the probability of success of such attacks and the
6 feasibility and potential efficacy of various counter-
7 measures to such attacks).

8 “(2) To participate in the integration of rel-
9 evant information, analyses, and vulnerability assess-
10 ments (whether such information, analyses, or as-
11 sessments are provided or produced by the Depart-
12 ment or others) in order to identify priorities for
13 protective and support measures by the Department,
14 other agencies of the Federal Government, State and
15 local government agencies and authorities, the pri-
16 vate sector, and other entities.

17 “(3) To develop a comprehensive national plan
18 for securing the key resources and critical infra-
19 structure of the United States, including power pro-
20 duction, generation, and distribution systems, infor-
21 mation technology and telecommunications systems
22 (including satellites), electronic financial and prop-
23 erty record storage and transmission systems, emer-
24 gency preparedness communications systems, and

1 the physical and technological assets that support
2 such systems.

3 “(4) To recommend measures necessary to pro-
4 tect the key resources and critical infrastructure of
5 the United States in coordination with other agen-
6 cies of the Federal Government and in cooperation
7 with State and local government agencies and au-
8 thorities, the private sector, and other entities.

9 “(5) To coordinate with the Under Secretary
10 for Intelligence and Analysis and elements of the in-
11 telligence community and with Federal, State, and
12 local law enforcement agencies, and the private sec-
13 tor, as appropriate.

14 “(6) To perform such other duties as assigned
15 by the Secretary under this Act.

16 “(d) STAFF.—

17 “(1) IN GENERAL.—The Secretary shall provide
18 the Office with a staff having appropriate expertise
19 and experience to assist the Assistant Secretary in
20 discharging responsibilities under this section.

21 “(2) PRIVATE SECTOR STAFF.—Staff under
22 this subsection may include staff from the private
23 sector.

1 “(3) SECURITY CLEARANCES.—Staff under this
2 subsection shall possess security clearances appro-
3 priate for their work under this section.

4 “(e) DETAIL OF PERSONNEL.—

5 “(1) IN GENERAL.—In order to assist the Of-
6 fice in discharging responsibilities under this section,
7 personnel of other Federal agencies may be detailed
8 to the Department for the performance of analytic
9 functions and related duties.

10 “(2) COOPERATIVE AGREEMENTS.—The Sec-
11 retary and the head of the agency concerned may
12 enter into cooperative agreements for the purpose of
13 detailing personnel under this subsection.

14 “(3) BASIS.—The detail of personnel under this
15 subsection may be on a reimbursable or non-reim-
16 bursable basis.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of such Act is further amended by adding
19 at the end of the items relating to such subtitle the fol-
20 lowing:

“Sec. 210A. Office of Infrastructure Protection.”.

1 **TITLE VIII—PROTECTING PRI-**
2 **VACY AND CIVIL LIBERTIES**
3 **WHILE EFFECTIVELY FIGHT-**
4 **ING TERRORISM**
5 **Subtitle A—Privacy and Civil**
6 **Liberties Oversight Boards**

7 **SEC. 801. SHORT TITLE.**

8 This subtitle may be cited as the “Protection of Civil
9 Liberties Act”.

10 **SEC. 802. FINDINGS.**

11 Congress finds the following:

12 (1) On July 22, 2004 the National Commission
13 on Terrorist Attacks Upon the United States issued
14 a report that included 41 specific recommendations
15 to help prevent future terrorist attacks, including de-
16 tails of a global strategy and government reorganiza-
17 tion necessary to implement that strategy.

18 (2) One of the recommendations focused on the
19 protections of civil liberties. Specifically the following
20 recommendation was made: “At this time of in-
21 creased and consolidated government authority,
22 there should be a board within the executive branch
23 to oversee adherence to the guidelines we rec-
24 ommend and the commitment the government makes
25 to defend our civil liberties.”.

1 (3) The report also states that “the choice be-
2 tween security and liberty is a false choice, as noth-
3 ing is more likely to endanger America’s liberties
4 than the success of a terrorist attack at home. Our
5 History has shown that the insecurity threatens lib-
6 erty at home. Yet if our liberties are curtailed, we
7 lose the values that we are struggling to defend.”.

8 (4) On December 17, 2004, Public Law 108–
9 458, the National Intelligence Reform Act, was
10 signed into law. This law created a civil liberties
11 board that does not have the authority necessary to
12 protect civil liberties.

13 **SEC. 803. MAKING THE PRIVACY AND CIVIL LIBERTIES**
14 **OVERSIGHT BOARD INDEPENDENT.**

15 Section 1061(b) of the Intelligence Reform and Ter-
16 rorism Prevention Act of 2004 (5 U.S.C. 601 note) is
17 amended by striking “within the Executive Office of the
18 President” and inserting “as an independent agency with-
19 in the Executive branch”.

20 **SEC. 804. REQUIRING ALL MEMBERS OF THE PRIVACY AND**
21 **CIVIL LIBERTIES OVERSIGHT BOARD BE CON-**
22 **FIRMED BY THE SENATE.**

23 Subsection (e) of section 1061 of the Intelligence Re-
24 form and Terrorism Prevention Act of 2004 (5 U.S.C. 601
25 note) is amended to read as follows:

1 “(e) MEMBERSHIP.—

2 “(1) MEMBERS.—The Board shall be composed
3 of a full-time chairman and 4 additional members,
4 who shall be appointed by the President by no later
5 than 6 months after the date of the enactment of
6 the Protection of Civil Liberties Act, by and with the
7 advice and consent of the Senate, which shall move
8 expeditiously following each nomination.

9 “(2) QUALIFICATIONS.—Members of the Board
10 shall be selected solely on the basis of their profes-
11 sional qualifications, achievements, public stature,
12 expertise in civil liberties and privacy, and relevant
13 experience, and without regard to political affiliation,
14 but in no event shall more than 3 members of the
15 Board be members of the same political party. The
16 President shall, before appointing an individual who
17 is not a member of the same political party as the
18 President consult with the leadership of that party,
19 if any, in the Senate and House of Representatives.

20 “(3) INCOMPATIBLE OFFICE.—An individual
21 appointed to the Board may not, while serving on
22 the Board, be an elected official, officer, or employee
23 of the Federal Government, other than in the capac-
24 ity as a member of the Board.

1 “(4) TERM.—Each member of the Board shall
2 serve a term of six years, except that—

3 “(A) a member appointed to a term of of-
4 fice after the commencement of such term may
5 serve under such appointment only for the re-
6 mainder of such term;

7 “(B) upon the expiration of the term of of-
8 fice of a member, the member shall continue to
9 serve until the member’s successor has been ap-
10 pointed and qualified, except that no member
11 may serve under this subparagraph—

12 “(i) for more than 60 days when Con-
13 gress is in session unless a nomination to
14 fill the vacancy shall have been submitted
15 to the Senate; or

16 “(ii) after the adjournment sine die of
17 the session of the Senate in which such
18 nomination is submitted; and

19 “(C) the members initially appointed under
20 this subsection shall serve terms of two, three,
21 four, five, and six years, respectively, from the
22 effective date of this Act, with the term of each
23 such member to be designated by the President.

24 “(5) QUORUM AND MEETINGS.—The Board
25 shall meet upon the call of the chairman or a major-

1 ity of its members. Three members of the Board
2 shall constitute a quorum.”.

3 **SEC. 805. SUBPOENA POWER FOR THE PRIVACY AND CIVIL**
4 **LIBERTIES OVERSIGHT BOARD.**

5 Section 1061(d) of the Intelligence Reform and Ter-
6 rorism Prevention Act of 2004 (5 U.S.C. 601 note) is
7 amended—

8 (1) so that subparagraph (D) of paragraph (1)
9 reads as follows:

10 “(D) require, by subpoena issued at the di-
11 rection of a majority of the members of the
12 Board, persons (other than departments, agen-
13 cies, and elements of the executive branch) to
14 produce any relevant information, documents,
15 reports, answers, records, accounts, papers, and
16 other documentary or testimonial evidence.”;
17 and

18 (2) so that paragraph (2) reads as follows:

19 “(2) ENFORCEMENT OF SUBPOENA.—In the
20 case of contumacy or failure to obey a subpoena
21 issued under paragraph (1)(D), the United States
22 district court for the judicial district in which the
23 subpoenaed person resides, is served, or may be
24 found may issue an order requiring such person to
25 produce the evidence required by such subpoena.”.

1 **SEC. 806. REPORTING REQUIREMENTS.**

2 (a) DUTIES OF BOARD.—Paragraph (4) of section
3 1061(c) of the Intelligence Reform and Terrorism Preven-
4 tion Act of 2004 (5 U.S.C. 601 note) is amended to read
5 as follows:

6 “(4) REPORTS.—

7 “(A) RECEIPT, REVIEW, AND SUBMIS-
8 SION.—

9 “(i) IN GENERAL.—The Board shall—
10 “(I) receive and review reports
11 from privacy officers and civil liberties
12 officers described in section 212; and

13 “(II) periodically submit, not less
14 than semiannually, reports to the ap-
15 propriate congressional committees,
16 including the Committees on the Judi-
17 ciary of the Senate and the House of
18 Representatives, the Committee on
19 Homeland Security and Governmental
20 Affairs of the Senate, the Committee
21 on Oversight and Government Reform
22 of the House of Representatives, the
23 Select Committee on Intelligence of
24 the Senate, and the Permanent Select
25 Committee on Intelligence of the
26 House of Representatives, the Com-

1 mittee on Homeland Security of the
2 House of Representatives, and to the
3 President.

4 Such reports shall be in unclassified form
5 to the greatest extent possible, with a clas-
6 sified annex where necessary.

7 “(ii) CONTENTS.—Not less than 2 re-
8 ports the Board submits each year under
9 clause (i)(II) shall include—

10 “(I) a description of the major
11 activities of the Board during the pre-
12 ceding period;

13 “(II) information on the findings,
14 conclusions, and recommendations of
15 the Board resulting from its advice
16 and oversight functions under sub-
17 section (c);

18 “(III) the minority views on any
19 findings, conclusions, and rec-
20 ommendations of the Board resulting
21 from its advice and oversight func-
22 tions under subsection (c); and

23 “(IV) each proposal reviewed by
24 the Board under subsection (c)(1)
25 that the Board advised against imple-

1 menting, but that notwithstanding
2 such advice, was implemented.

3 “(B) INFORMING THE PUBLIC.—The
4 Board shall—

5 “(i) make its reports, including its re-
6 ports to Congress, available to the public
7 to the greatest extent that is consistent
8 with the protection of classified informa-
9 tion and applicable law; and

10 “(ii) hold public hearings and other-
11 wise inform the public of its activities, as
12 appropriate and in a manner consistent
13 with the protection of classified informa-
14 tion and applicable law.”.

15 (b) PRIVACY AND CIVIL LIBERTIES OFFICERS.—

16 (1) DESIGNATION OF OFFICERS.—Section 1062
17 of the Intelligence Reform and Terrorism Prevention
18 Act of 2004 (118 Stat. 3688) is amended to read as
19 follows:

20 **“SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

21 “(a) DESIGNATION AND FUNCTIONS.—The Attorney
22 General, the Secretary of Defense, the Secretary of State,
23 the Secretary of the Treasury, the Secretary of Health and
24 Human Services, the Secretary of Homeland Security, the
25 National Intelligence Director, the Director of the Central

1 Intelligence Agency, any other entity within the intel-
2 ligence community (as defined in section 3 of the National
3 Security Act of 1947 (50 U.S.C. 401a)), and the head of
4 any other department, agency, or element of the executive
5 branch designated by the Privacy and Civil Liberties Over-
6 sight Board to be appropriate for coverage under this sec-
7 tion shall designate not less than 1 senior officer to—

8 “(1) assist the head of such department, agen-
9 cy, or element and other officials of such depart-
10 ment, agency, or element in appropriately consid-
11 ering privacy and civil liberties concerns when such
12 officials are proposing, developing, or implementing
13 laws, regulations, policies, procedures, or guidelines
14 related to efforts to protect the Nation against ter-
15 rorism;

16 “(2) periodically investigate and review depart-
17 ment, agency, or element actions, policies, proce-
18 dures, guidelines, and related laws and their imple-
19 mentation to ensure that such department, agency,
20 or element is adequately considering privacy and
21 civil liberties in its actions;

22 “(3) ensure that such department, agency, or
23 element has adequate procedures to receive, inves-
24 tigate, respond to, and redress complaints from indi-

1 viduals who allege such department, agency, or ele-
2 ment has violated their privacy or civil liberties; and

3 “(4) in providing advice on proposals to retain
4 or enhance a particular governmental power the offi-
5 cer shall consider whether such department, agency,
6 or element has established—

7 “(A) that the power actually enhances se-
8 curity and the need for the power is balanced
9 with the need to protect privacy and civil lib-
10 erties;

11 “(B) that there is adequate supervision of
12 the use by such department, agency, or element
13 of the power to ensure protection of privacy and
14 civil liberties; and

15 “(C) that there are adequate guidelines
16 and oversight to properly confine its use.

17 “(b) EXCEPTION TO DESIGNATION AUTHORITY.—

18 “(1) PRIVACY OFFICERS.—In any department,
19 agency, or element referred to in subsection (a) or
20 designated by the Board, which has a statutorily
21 created privacy officer, such officer shall perform the
22 functions specified in subsection (a) with respect to
23 privacy.

24 “(2) CIVIL LIBERTIES OFFICERS.—In any de-
25 partment, agency, or element referred to in sub-

1 section (a) or designated by the Board, which has a
2 statutorily created civil liberties officer, such officer
3 shall perform the functions specified in subsection
4 (a) with respect to civil liberties.

5 “(c) SUPERVISION AND COORDINATION.—Each pri-
6 vacy officer or civil liberties officer described in subsection
7 (a) or (b) shall—

8 “(1) report directly to the head of the depart-
9 ment, agency, or element concerned; and

10 “(2) coordinate their activities with the Inspec-
11 tor General of such department, agency, or element
12 to avoid duplication of effort.

13 “(d) AGENCY COOPERATION.—The head of each de-
14 partment, agency, or element shall ensure that each pri-
15 vacy officer and civil liberties officer—

16 “(1) has the information, material, and re-
17 sources necessary to fulfill the functions of such offi-
18 cer;

19 “(2) is advised of proposed policy changes;

20 “(3) is consulted by decisionmakers; and

21 “(4) is given access to material and personnel
22 the officer determines to be necessary to carry out
23 the functions of such officer.

24 “(e) REPRISAL FOR MAKING COMPLAINT.—No ac-
25 tion constituting a reprisal, or threat of reprisal, for mak-

1 ing a complaint or for disclosing information to a privacy
2 officer or civil liberties officer described in subsection (a)
3 or (b), or to the Privacy and Civil Liberties Oversight
4 Board, that indicates a possible violation of privacy protec-
5 tions or civil liberties in the administration of the pro-
6 grams and operations of the Federal Government relating
7 to efforts to protect the Nation from terrorism shall be
8 taken by any Federal employee in a position to take such
9 action, unless the complaint was made or the information
10 was disclosed with the knowledge that it was false or with
11 willful disregard for its truth or falsity.

12 “(f) PERIODIC REPORTS.—

13 “(1) IN GENERAL.—The privacy officers and
14 civil liberties officers of each department, agency, or
15 element referred to or described in subsection (a) or
16 (b) shall periodically, but not less than quarterly,
17 submit a report on the activities of such officers—

18 “(A)(i) to the appropriate congressional
19 committees, including the Committees on the
20 Judiciary of the Senate and the House of Rep-
21 resentatives, the Committee on Homeland Secu-
22 rity and Governmental Affairs of the Senate,
23 the Committee on Oversight and Government
24 Reform of the House of Representatives, the
25 Select Committee on Intelligence of the Senate,

1 and the Permanent Select Committee on Intel-
2 ligence of the House of Representatives;

3 “(ii) to the head of such department, agen-
4 cy, or element; and

5 “(iii) to the Privacy and Civil Liberties
6 Oversight Board; and

7 “(B) which shall be in unclassified form to
8 the greatest extent possible, with a classified
9 annex where necessary.

10 “(2) CONTENTS.—Each report submitted under
11 paragraph (1) shall include information on the dis-
12 charge of each of the functions of the officer con-
13 cerned, including—

14 “(A) information on the number and types
15 of reviews undertaken;

16 “(B) the type of advice provided and the
17 response given to such advice;

18 “(C) the number and nature of the com-
19 plaints received by the department, agency, or
20 element concerned for alleged violations; and

21 “(D) a summary of the disposition of such
22 complaints, the reviews and inquiries conducted,
23 and the impact of the activities of such officer.

24 “(g) INFORMING THE PUBLIC.—Each privacy officer
25 and civil liberties officer shall—

1 “(1) make the reports of such officer, including
2 reports to Congress, available to the public to the
3 greatest extent that is consistent with the protection
4 of classified information and applicable law; and

5 “(2) otherwise inform the public of the activi-
6 ties of such officer, as appropriate and in a manner
7 consistent with the protection of classified informa-
8 tion and applicable law.

9 “(h) SAVINGS CLAUSE.—Nothing in this section shall
10 be construed to limit or otherwise supplant any other au-
11 thorities or responsibilities provided by law to privacy offi-
12 cers or civil liberties officers.”.

13 (2) CLERICAL AMENDMENT.—The table of con-
14 tents in section 1(b) of such Act is amended by
15 striking the item relating to section 1062 and insert-
16 ing the following:

“Sec. 1062. Privacy and civil liberties officers.”.

17 **Subtitle B—Enhancement of**
18 **Privacy Officer Authorities**

19 **SEC. 811. SHORT TITLE.**

20 This subtitle may be cited as the “Privacy Officer
21 With Enhanced Rights Act of 2007” or the “POWER
22 Act”.

1 **SEC. 812. AUTHORITIES OF THE PRIVACY OFFICER OF THE**
2 **DEPARTMENT OF HOMELAND SECURITY.**

3 Section 222 of the Homeland Security Act of 2002
4 (6 U.S.C. 142) is amended—

5 (1) by inserting before the first sentence the
6 following: “(a) APPOINTMENT AND RESPONSIBIL-
7 ITIES.—”; and

8 (2) by adding at the end the following:

9 “(b) AUTHORITY TO INVESTIGATE.—

10 “(1) IN GENERAL.—The senior official ap-
11 pointed under this section is specifically author-
12 ized—

13 “(A) to have access to all records, reports,
14 audits, reviews, documents, papers, rec-
15 ommendations, and other materials available to
16 the Department that relate to programs and op-
17 erations with respect to which the senior official
18 has responsibilities under this section;

19 “(B) to make such investigations and re-
20 ports relating to the administration of the pro-
21 grams and operations of the Department as
22 are, in the senior official’s judgment, necessary
23 or desirable;

24 “(C) to require by subpoena the produc-
25 tion, by persons other than Federal agencies, of
26 all information, documents, reports, answers,

1 records, accounts, papers, and other data and
2 documentary evidence necessary to performance
3 of the functions of the senior official under this
4 section;

5 “(D) to administer to or take from any
6 person an oath, affirmation, or affidavit, when-
7 ever necessary to performance of the functions
8 of the senior official under this section; and

9 “(E) to take any other action that may be
10 taken by the Inspector General of the Depart-
11 ment, as necessary to require employees of the
12 Department to produce documents and answer
13 questions relevant to performance of the func-
14 tions of the senior official under this section.

15 “(2) ENFORCEMENT OF SUBPOENAS.—Any sub-
16 poena issued under paragraph (1)(C) shall, in the
17 case of contumacy or refusal to obey, be enforceable
18 by order of any appropriate United States district
19 court.

20 “(3) EFFECT OF OATHS, ETC.—Any oath, affir-
21 mation, or affidavit administered or taken under
22 paragraph (1)(D) by or before an employee of the
23 Privacy Office designated for that purpose by the
24 senior official appointed under subsection (a) shall

1 have the same force and effect as if administered or
2 taken by or before an officer having a seal of office.

3 “(c) TERM OF OFFICE.—The term of appointment of
4 a senior official under subsection (a) shall be 5 years.

5 “(d) REPORTS TO CONGRESS.—The senior official
6 appointed under subsection (a) shall submit reports di-
7 rectly to Congress regarding performance of the respon-
8 sibilities of the senior official under this section, without
9 any prior comment or amendment by the Secretary, Dep-
10 uty Secretary, or any other officer or employee of the De-
11 partment or the Office of Management and Budget.”.

12 **TITLE IX—IMPROVING CRITICAL** 13 **INFRASTRUCTURE SECURITY**

14 **SEC. 901. VULNERABILITY ASSESSMENT AND REPORT ON** 15 **CRITICAL INFRASTRUCTURE INFORMATION.**

16 (a) IN GENERAL.—Subtitle B of title II of the Home-
17 land Security Act of 2002 is amended by adding at the
18 end the following new section:

19 **“SEC. 216. ANNUAL CRITICAL INFRASTRUCTURE VULNER-** 20 **ABILITY ASSESSMENT AND REPORT.**

21 “(a) VULNERABILITY ASSESSMENT REQUIRED.—Ex-
22 cept where a vulnerability assessment is required under
23 another provision of law, for each fiscal year, the Sec-
24 retary, acting through the Assistant Secretary for Infra-
25 structure Protection pursuant to the responsibilities under

1 section 210A, shall prepare a vulnerability assessment of
2 the critical infrastructure information available to the Sec-
3 retary with respect to that fiscal year. Each vulnerability
4 assessment shall contain any actions or countermeasures
5 proposed or recommended by the Secretary to address se-
6 curity concerns covered in the assessment. The informa-
7 tion in each such assessment shall be set forth separately
8 for each critical infrastructure sector, including the critical
9 infrastructure sectors named in Homeland Security Presi-
10 dential Directive-7, as in effect on January 1, 2006.

11 “(b) ANNUAL REPORT TO CONGRESS.—

12 “(1) REPORT REQUIRED.—Not later than six
13 months after the last day of a fiscal year, the Sec-
14 retary shall submit to the Committee on Homeland
15 Security of the House of Representatives and the
16 Committee on Homeland Security and Governmental
17 Affairs of the Senate a report containing a summary
18 and review of the vulnerability assessments prepared
19 by the Secretary under subsection (a) for that fiscal
20 year and the two preceding fiscal years. The infor-
21 mation in the report shall be set forth separately for
22 each of the critical infrastructure sectors described
23 in subsection (a).

1 “(2) CONTENTS OF REPORT.—The Secretary
2 shall include in the report required under paragraph
3 (1)—

4 “(A) for each critical infrastructure sector
5 covered by the report, a summary comparison
6 describing any changes between the vulner-
7 ability assessment for the fiscal year covered by
8 the report and the vulnerability assessment for
9 the preceding fiscal year;

10 “(B) the explanation and comments of the
11 Secretary with respect to the greatest risks to
12 critical infrastructure for each such sector; and

13 “(C) the recommendations of the Secretary
14 for mitigating such risks.

15 “(3) CLASSIFIED ANNEX.—The report required
16 under paragraph (1) may contain a classified
17 annex.”.

18 (b) TECHNICAL AMENDMENT.—Section 212(3) of
19 such Act (6 U.S.C. 131(3)) is amended—

20 (1) by inserting “relating to” after “the secu-
21 rity of critical infrastructure or protected systems”;
22 and

23 (2) in subparagraph (A), by inserting “the”
24 after “(A)”.

1 (c) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of such Act is amended by inserting after
3 the item relating to section 215 the following new item:

“Sec. 216. Annual critical infrastructure vulnerability assessment and report.”.

4 **SEC. 902. NATIONAL ASSET DATABASE AND THE NATIONAL**
5 **AT-RISK DATABASE.**

6 (a) IN GENERAL.—Subtitle A of title II of the Home-
7 land Security Act of 2002 is amended by adding at the
8 end the following new sections:

9 **“SEC. 210C. NATIONAL ASSET DATABASE AND NATIONAL**
10 **AT-RISK DATABASE.**

11 “(a) ESTABLISHMENT.—

12 “(1) NATIONAL ASSET DATABASE.—The Sec-
13 retary shall establish and maintain a national data-
14 base of nationwide critical infrastructure assets to
15 identify and prioritize critical infrastructure and key
16 resources and to protect them from terrorist attack.
17 The database shall be known as the ‘National Asset
18 Database’.

19 “(2) NATIONAL AT-RISK DATABASE.—The Sec-
20 retary shall establish within the National Asset
21 Database, a database containing a list of the infra-
22 structure the Secretary determines is most at risk,
23 to be known as the ‘National At-Risk Database’.

24 “(3) NATIONAL ASSET DATABASE CONSOR-
25 TIUM.—

1 “(A) ESTABLISHMENT.—The Secretary
2 shall establish a consortium to be known as the
3 ‘National Asset Database Consortium’. The
4 Consortium shall advise the Secretary on the
5 best way to identify, generate, organize, and
6 maintain the databases described in paragraphs
7 (1) and (2) and shall be made up of at least
8 two but not more than four national labora-
9 tories and the heads of such other Federal
10 agencies as the Secretary deems appropriate.

11 “(B) ADMINISTRATION AND CONSULTA-
12 TION.—The Secretary shall—

13 “(i) select as members of the National
14 Asset Database Consortium national lab-
15 oratories or Federal agencies that have
16 demonstrated experience working with and
17 identifying critical infrastructure;

18 “(ii) enter into contracts, as nec-
19 essary, with the members of the National
20 Asset Database Consortium to perform the
21 tasks required under this section; and

22 “(iii) solicit and receive comments
23 from the National Asset Database Consor-
24 tium on—

1 “(I) the appropriateness of the
2 protection and risk methodologies in
3 the National Infrastructure Protection
4 Plan or other nationwide infrastruc-
5 ture protection plan issued by the De-
6 partment; and

7 “(II) alternative means to define
8 risk and identify specific criteria to
9 prioritize the most at-risk infrastruc-
10 ture or key resources.

11 “(b) USE OF DATABASE.—The Secretary shall use
12 the database established under subsection (a)—

13 “(1) in the development, coordination, integra-
14 tion, and implementation of plans and programs, in-
15 cluding to identify, catalog, prioritize, and protect
16 critical infrastructure and key resources in accord-
17 ance with Homeland Security Presidential Directive
18 number 7, and in cooperation with all levels of gov-
19 ernment and private sector entities that the Sec-
20 retary considers appropriate; and

21 “(2) in providing any covered grant to assist in
22 preventing, reducing, mitigating, or responding to
23 terrorist attack.

24 “(c) MAINTENANCE OF DATABASE.—

1 “(1) IN GENERAL.—The Secretary shall main-
2 tain and annually update the database, including
3 by—

4 “(A) annually defining and systematically
5 examining assets in the database that are de-
6 scribed incorrectly or that do not meet national
7 assets guidelines used by the Secretary to deter-
8 mine which assets should remain in the Na-
9 tional Asset Database and the National At-Risk
10 Database;

11 “(B) annually providing a list to the States
12 of assets referred to in subparagraph (A) for
13 review before finalizing the decision of which
14 assets to include in the National Asset Data-
15 base and the National At-Risk Database;

16 “(C) reviewing the guidelines to the States
17 to ensure consistency and uniformity for inclu-
18 sion and how the Department intends to use
19 that data;

20 “(D) meeting annually with the States to
21 provide guidance and clarification of the guide-
22 lines to promote consistency and uniformity in
23 submissions;

24 “(E) utilizing on an ongoing basis the Na-
25 tional Asset Database and other expert panels

1 established by the Department to review and re-
2 fine the National Asset Database and the Na-
3 tional At-Risk Database; and

4 “(F) utilizing the Department’s National
5 Infrastructure Simulation and Analysis Center
6 for the National Asset Database taxonomy and
7 asset information in the National Asset Data-
8 base and facilitating the future exchange of in-
9 formation between the National Asset Database
10 and such center.

11 “(2) ORGANIZATION OF INFORMATION IN DATA-
12 BASE.—The Secretary shall—

13 “(A) remove from the National Asset
14 Database or the National At-Risk Database any
15 asset that the Secretary determines to be un-
16 verifiable and as not meeting national asset
17 guidelines set forth by the Secretary in requests
18 for information from States; and

19 “(B) classify assets in the database accord-
20 ing to the 17 sectors listed in National Infra-
21 structure Protection Plan developed pursuant to
22 Homeland Security Presidential Directive 7, to
23 ensure that the assets in the National Asset
24 Database and the National At-Risk Database
25 can be categorized by State and locality, region-

1 ally, and in such a manner as is effective for
2 grants and other purposes.

3 “(3) MILESTONES AND GUIDELINES.—The Sec-
4 retary shall—

5 “(A) identify and evaluate key milestones
6 for the National Asset Database and the Na-
7 tional At-Risk Database, including methods to
8 integrate private sector assets and tasks that
9 must be completed to eventually allocate home-
10 land security grant programs based on the in-
11 formation contained in the database; and

12 “(B) issue guidelines for—

13 “(i) States to submit uniform infor-
14 mation for possible inclusion in the Na-
15 tional Asset Database or the National At-
16 Risk Database; and

17 “(ii) review of such submissions by
18 the Department.

19 “(d) REPORTS.—

20 “(1) IN GENERAL.—Not later than March 1 of
21 each year, the Secretary shall submit to the Com-
22 mittee on Homeland Security of the House of Rep-
23 resentatives and the Committee on Homeland Secu-
24 rity and Governmental Affairs of the Senate a report
25 on the critical infrastructure included in the Na-

1 tional Asset Database that is most at risk to ter-
2 rorism.

3 “(2) CONTENTS.—Each report shall include the
4 following:

5 “(A) The name, location, and sector classi-
6 fication of assets in the National Asset Data-
7 base that have been identified or deemed crit-
8 ical infrastructure that is most at risk to ter-
9 rorism.

10 “(B) Changes made in such database re-
11 garding such critical infrastructure made dur-
12 ing the period covered by the report regard-
13 ing—

14 “(i) defining and identifying critical
15 infrastructure; and

16 “(ii) compiling a usable database.

17 “(C) The extent to which the database has
18 been used as a tool for allocating funds to pre-
19 vent, reduce, mitigate, and respond to terrorist
20 attacks.

21 “(3) CLASSIFIED INFORMATION.—The Sec-
22 retary shall provide to the members of the commit-
23 tees to which the report required under this sub-
24 section is required to be submitted under paragraph
25 (1) a classified briefing on the contents of such re-

1 port. The Secretary shall also submit with each re-
2 port a classified annex containing information re-
3 quired to be submitted under this section that can-
4 not be made public.

5 “(e) COVERED GRANT DEFINED.—In this section,
6 the term ‘covered grant’ means any grant provided by the
7 Department under any of the following:

8 “(1) The Urban Area Security Initiative.

9 “(2) The Buffer Zone Protection Program.

10 “(3) Any other grant program administered by
11 the Department, as determined appropriate by the
12 Secretary.

13 “(4) Any successor to a program referred to in
14 this paragraph.”.

15 (b) DEADLINES FOR IMPLEMENTATION AND NOTIFI-
16 CATION OF CONGRESS.—

17 (1) DEADLINE FOR RECOMMENDATIONS.—Not
18 later than 60 days after the date of the enactment
19 of this Act, the Secretary of Homeland Security
20 shall secure recommendations on how to identify,
21 generate, organize, and maintain the list of assets in
22 the databases from the consortium of national lab-
23 oratories, as required under section 210C(a)(2) of
24 the Homeland Security Act of 2002, as added by
25 subsection (a).

1 (2) DEADLINE FOR FIRST REPORT REGARDING
2 USE OF THE NATIONAL ASSET DATABASE.—Notwith-
3 standing the date specified under section 210C(d) of
4 the Homeland Security Act of 2002, as added by
5 subsection (a), the Secretary of Homeland Security
6 shall submit the first report required under that sec-
7 tion not later than 180 days after the date of the
8 enactment of this Act.

9 (c) CLERICAL AMENDMENT.—The table of contents
10 in section 1(b) of such Act is further amended by inserting
11 after the item relating to section 210 the following:

“Sec. 210C. National Asset Database and National At-Risk Database.”.

12 (d) SUBMITTAL OF CERTAIN REPORTS.—Each report
13 that is authorized or required by this Act (or the amend-
14 ments made by this Act) to be prepared by the Secretary
15 of Homeland Security and that concerns a matter of the
16 type carried out under an program under the jurisdiction
17 of the Committee on Energy and Commerce of the House
18 of Representatives shall be submitted to the Committee
19 on Energy and Commerce of the House of Representa-
20 tives, in addition to the other congressional committees in-
21 volved.

1 **TITLE X—TRANSPORTATION SE-**
2 **CURITY PLANNING AND IN-**
3 **FORMATION SHARING**

4 **SEC. 1001. STRATEGIC TRANSPORTATION SECURITY INFOR-**
5 **MATION SHARING.**

6 Section 114 of title 49, United States Code, is
7 amended by adding at the end the following:

8 “(u) STRATEGIC INFORMATION SHARING.—

9 “(1) ESTABLISHMENT OF PLAN.—The Sec-
10 retary of Homeland Security shall establish a Stra-
11 tegic Transportation Security Information Sharing
12 Plan.

13 “(2) PURPOSE OF PLAN.—The plan shall en-
14 sure the robust development of tactical and strategic
15 intelligence products for disseminating to public and
16 private stakeholders security information relating to
17 threats to and vulnerabilities of transportation
18 modes, including aviation, bridge and tunnel, com-
19 muter rail and ferry, highway, maritime, pipeline,
20 rail, mass transit, and over-the-road bus transpor-
21 tation.

22 “(3) CONTENT OF PLAN.—The plan shall in-
23 clude—

24 “(A) a description of how intelligence ana-
25 lysts in the Transportation Security Adminis-

1 tration are coordinating their activities with
2 other intelligence analysts in the Department of
3 Homeland Security and other Federal, State,
4 and local agencies;

5 “(B) reasonable deadlines for completing
6 any organizational changes within the Depart-
7 ment of Homeland Security required to accom-
8 modate implementation of the plan; and

9 “(C) a description of resource needs for
10 fulfilling the plan.

11 “(4) REPORTS TO CONGRESS.—

12 “(A) IN GENERAL.—Not later than 180
13 days after the date of enactment of this sub-
14 section, the Secretary shall submit to the appro-
15 priate congressional committees a report con-
16 taining the plan.

17 “(B) UPDATES.—

18 “(i) CERTIFICATION OF FULL IMPLE-
19 MENTATION.—After achieving full imple-
20 mentation of the plan, the Secretary shall
21 submit to the appropriate congressional
22 committees a written certification of such
23 implementation.

24 “(ii) UPDATES ON IMPLEMENTA-
25 TION.—Not later than 90 days after the

1 date of submission of a report under sub-
2 paragraph (A), and every 90 days there-
3 after until the date of submission of a
4 written certification under clause (i), the
5 Secretary shall submit to the appropriate
6 congressional committees a report con-
7 taining an update on implementation of
8 the plan.

9 “(C) ANNUAL REPORT.—Following the
10 date of submission of a written certification
11 under subparagraph (B)(i), the Secretary shall
12 submit to the appropriate congressional com-
13 mittees an annual report on the following:

14 “(i) The number of transportation in-
15 telligence reports disseminated under the
16 plan and a brief description of each report.

17 “(ii) The security classification of
18 each report.

19 “(iii) The number of public and pri-
20 vate stakeholders who were provided with
21 each report.

22 “(5) SURVEY.—The Secretary shall conduct an
23 annual survey of the satisfaction of each of the re-
24 cipients of transportation intelligence reports dis-
25 seminated under the plan, and include the results of

1 the survey as part of the annual report to be sub-
2 mitted under paragraph (4)(C).

3 “(6) SECURITY CLEARANCES.—The Secretary
4 shall ensure that public and private stakeholders
5 have the security clearances needed to receive classi-
6 fied information if information contained in trans-
7 portation intelligence reports cannot be disseminated
8 in an unclassified format.

9 “(7) CLASSIFICATION OF MATERIAL.—To the
10 greatest extent possible, the Secretary shall provide
11 public and private stakeholders with specific and ac-
12 tionable information in an unclassified format.

13 “(8) DEFINITIONS.—In this subsection, the fol-
14 lowing definitions apply:

15 “(A) APPROPRIATE CONGRESSIONAL COM-
16 MITTEES.—The term ‘appropriate congressional
17 committees’ has the meaning given that term in
18 subsection (t).

19 “(B) PLAN.—The term ‘plan’ means the
20 Strategic Transportation Security Information
21 Sharing Plan established under paragraph (1).

22 “(C) PUBLIC AND PRIVATE STAKE-
23 HOLDERS.—The term ‘public and private stake-
24 holders’ means Federal, State, and local agen-
25 cies, tribal governments, and appropriate pri-

1 vate entities, including nonprofit employee labor
2 organizations.”.

3 **SEC. 1002. TRANSPORTATION SECURITY STRATEGIC PLAN-**
4 **NING.**

5 (a) IN GENERAL.—Section 114(t)(1)(B) of title 49,
6 United States Code, is amended to read as follows:

7 “(B) transportation modal security plans
8 addressing risks, threats, and vulnerabilities for
9 aviation, bridge and tunnel, commuter rail and
10 ferry, highway, maritime, pipeline, rail, mass
11 transit, over-the-road bus, and other public
12 transportation infrastructure assets.”.

13 (b) ROLE OF SECRETARY OF TRANSPORTATION.—
14 Section 114(t)(2) of such title is amended by inserting be-
15 fore the period at the end the following: “and in carrying
16 out all other responsibilities set forth in this subsection”.

17 (c) CONTENTS OF NATIONAL STRATEGY FOR TRANS-
18 PORTATION SECURITY.—Section 114(t)(3) of such title is
19 amended—

20 (1) in subparagraph (B) by inserting “, based
21 on vulnerability assessments conducted by the De-
22 partment of Homeland Security,” after “risk-based
23 priorities”;

24 (2) in subparagraph (D)—

1 (A) by striking “and local” and inserting
2 “, local, and tribal”; and

3 (B) by striking “private sector cooperation
4 and participation” and inserting “cooperation
5 and participation by private sector entities, in-
6 cluding nonprofit employee labor organiza-
7 tions,”;

8 (3) in subparagraph (E)—

9 (A) by striking “response” and inserting
10 “prevention, response,”; and

11 (B) by inserting “and outside of” before
12 “the United States”; and

13 (4) in subparagraph (F) by adding at the end
14 the following: “Research and development projects
15 initiated by the Department of Homeland Security
16 shall be based on such prioritization.”.

17 (d) PERIODIC PROGRESS REPORT.—Section
18 114(t)(4)(C) is amended—

19 (1) in clause (i) by inserting before the period
20 at the end the following: “, including the transpor-
21 tation modal security plans”;

22 (2) by striking clause (ii) and inserting the fol-
23 lowing:

1 “(ii) CONTENT.—Each progress re-
2 port submitted under this subparagraph
3 shall include, at a minimum, the following:

4 “(I) Recommendations for im-
5 proving and implementing the Na-
6 tional Strategy for Transportation Se-
7 curity and the transportation modal
8 security plans that the Secretary, in
9 consultation with the Secretary of
10 Transportation, considers appropriate.

11 “(II) An accounting of all grants
12 for transportation security, including
13 grants for research and development,
14 distributed by the Department of
15 Homeland Security in the previous
16 year and a description of how the
17 grants accomplished the goals of the
18 National Strategy for Transportation
19 Security.

20 “(III) An accounting of all funds
21 (other than grants referred in sub-
22 clause (II)) expended by the Depart-
23 ment of Homeland Security on trans-
24 portation security.

1 “(IV) Information on the number
2 of employees of the Department of
3 Homeland Security, by agency, work-
4 ing on transportation security issues.
5 The listing shall be divided by trans-
6 portation mode, including aviation,
7 bridge and tunnel, commuter rail and
8 ferry, highway, maritime, pipeline,
9 rail, mass transit, over-the-road bus,
10 and other public transportation
11 modes. The listing shall include infor-
12 mation, by transportation mode, on
13 the number of contractors hired by
14 the Department of Homeland Security
15 to work on transportation-related se-
16 curity.

17 “(V) Information on the turnover
18 in the previous year among employees
19 of the Department of Homeland Secu-
20 rity working on transportation secu-
21 rity issues. Specifically, the report
22 shall provide information on the num-
23 ber of employees who have left the
24 Department, their agency, the area in
25 which they worked, and the amount of

1 time that they worked for the Depart-
2 ment.

3 “(iii) WRITTEN EXPLANATION OF
4 TRANSPORTATION SECURITY ACTIVITIES
5 NOT DELINEATED IN THE NATIONAL
6 STRATEGY FOR TRANSPORTATION SECU-
7 RITY.—Before carrying out a transpor-
8 tation security activity that is not clearly
9 delineated in the National Strategy for
10 Transportation Security, the Secretary
11 shall submit to appropriate congressional
12 committees a written explanation of the ac-
13 tivity, including the amount of funds to be
14 expended for the activity.”.

15 (e) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
16 FINED.—Section 114(t)(4)(E) of such title is amended by
17 striking “Select”.

18 (f) PRIORITY STATUS.—Section 114(t)(5)(B) of such
19 title is amended—

20 (1) by striking “and” at the end of clause (iii);

21 (2) by redesignating clause (iv) as clause (v);

22 and

23 (3) by inserting after clause (iii) the following:

1 “(iv) the transportation sector specific
2 plan required under Homeland Security
3 Presidential Directive 7; and”.

4 (g) COORDINATION; PLAN DISTRIBUTION.—Section
5 114(t) of such title is amended by adding at the end the
6 following:

7 “(6) COORDINATION.—In carrying out the re-
8 sponsibilities set forth in this section, the Secretary
9 of Homeland Security, working with the Secretary of
10 Transportation, shall consult with Federal, State,
11 and local agencies, tribal governments, private sector
12 entities (including nonprofit employee labor organi-
13 zations), institutions of higher learning, and other
14 appropriate entities.

15 “(7) PLAN DISTRIBUTION.—The Secretary of
16 Homeland Security shall provide an unclassified
17 version of the National Strategy for Transportation
18 Security to Federal, State, and local agencies, tribal
19 governments, private sector entities (including non-
20 profit employee labor organizations), institutions of
21 higher learning, and other appropriate entities.”.

1 **TITLE XI—PRIVATE SECTOR**
2 **PREPAREDNESS**

3 **SEC. 1101. PARTICIPATION OF PRIVATE SECTOR ORGANIZA-**
4 **TIONS IN EMERGENCY PREPAREDNESS AND**
5 **RESPONSE ACTIVITIES.**

6 (a) ESTABLISHMENT OF PREPAREDNESS PRO-
7 GRAM.—Section 519 of the Homeland Security Act of
8 2002 (6 U.S.C. 318) is amended—

9 (1) by striking the section heading and insert-
10 ing the following:

11 **“SEC. 519. PARTICIPATION OF PRIVATE SECTOR ORGANIZA-**
12 **TIONS IN EMERGENCY PREPAREDNESS AND**
13 **RESPONSE ACTIVITIES.”;**

14 (2) by inserting “(a) USE OF PRIVATE SECTOR
15 NETWORKS IN EMERGENCY RESPONSE.—” before
16 “To the maximum”; and

17 (3) by adding at the end the following:

18 **“(b) PRIVATE SECTOR EMERGENCY PREPAREDNESS**
19 **PROGRAM.—**

20 “(1) PREPAREDNESS PROGRAM.—Not later
21 than 90 days after the date of enactment of this
22 subsection, the Secretary shall develop and imple-
23 ment a program to enhance private sector prepared-
24 ness for acts of terrorism and other emergencies and

1 disasters through the promotion of the use of vol-
2 untary consensus standards.

3 “(2) PROGRAM ELEMENTS.—In carrying out
4 the program, the Secretary shall develop guidance
5 and identify best practices to assist or foster action
6 by the private sector in—

7 “(A) identifying hazards and assessing
8 risks and impacts;

9 “(B) mitigating the impacts of a wide vari-
10 ety of hazards, including weapons of mass de-
11 struction;

12 “(C) managing necessary emergency pre-
13 paredness and response resources;

14 “(D) developing mutual aid agreements;

15 “(E) developing and maintaining emer-
16 gency preparedness and response plans, as well
17 as associated operational procedures;

18 “(F) developing and conducting training
19 and exercises to support and evaluate emer-
20 gency preparedness and response plans and
21 operational procedures;

22 “(G) developing and conducting training
23 programs for security guards to implement
24 emergency preparedness and response plans
25 and operations procedures; and

1 “(H) developing procedures to respond to
2 external requests for information from the
3 media and the public.

4 “(3) STANDARDS.—

5 “(A) IN GENERAL.—The Secretary shall
6 support the development of, promulgate, and
7 regularly update as necessary national vol-
8 untary consensus standards for private sector
9 emergency preparedness that will enable private
10 sector organizations to achieve optimal levels of
11 emergency preparedness as soon as practicable.
12 Such standards shall include the National Fire
13 Protection Association 1600 Standard on Dis-
14 aster/Emergency Management and Business
15 Continuity Programs.

16 “(B) CONSULTATION.—The Secretary
17 shall carry out paragraph (1) in consultation
18 with the Assistant Secretary for Infrastructure
19 Protection, the Assistant Secretary for Cyber
20 Security and Communications, the Under Sec-
21 retary for Science and Technology, the Director
22 of the Federal Emergency Management Agency,
23 and the Special Assistant to the Secretary for
24 the Private Sector.

1 “(4) COORDINATION.—The Secretary shall co-
2 ordinate the program with, and utilize to the max-
3 imum extent practicable—

4 “(A) the voluntary standards for disaster
5 and emergency management and business con-
6 tinuity programs accredited by the American
7 National Standards Institute and developed by
8 the National Fire Protection Association; and

9 “(B) any existing private sector emergency
10 preparedness guidance or best practices devel-
11 oped by private sector industry associations or
12 other organizations.”.

13 (b) CONFORMING AMENDMENT.—The table of con-
14 tents contained in section 1(b) of such Act is amended
15 by striking the item relating to section 519 and inserting
16 the following:

 “Sec. 519. Participation of private sector organizations in emergency prepared-
 ness and response activities.”.

17 **TITLE XII—PREVENTING WEAP-**
18 **ONS OF MASS DESTRUCTION**
19 **PROLIFERATION AND TER-**
20 **RORISM**

21 **SEC. 1201. FINDINGS.**

22 (a) FINDINGS OF THE 9/11 COMMISSION.—Congress
23 finds that the 9/11 Commission made the following deter-
24 minations:

1 (1) The United States Government has made
2 insufficient progress, and receives a grade “D”, on
3 efforts to prevent weapons of mass destruction
4 (WMD) proliferation and terrorism.

5 (2) The Cooperative Threat Reduction (CTR)
6 program has made significant accomplishments, but
7 much remains to be done to secure weapons-grade
8 nuclear materials. The size of the problem still
9 dwarfs the policy response. Nuclear materials in the
10 former Soviet Union still lack effective security pro-
11 tection, and sites throughout the world contain
12 enough highly-enriched uranium to fashion a nuclear
13 device but lack even basic security features.

14 (3) Preventing the proliferation of WMD and
15 acquisition of such weapons by terrorists warrants a
16 maximum effort, by strengthening counter-prolifera-
17 tion efforts, expanding the Proliferation Security
18 Initiative (PSI), and supporting the Cooperative
19 Threat Reduction (CTR) Program.

20 (4) Preventing terrorists from gaining access to
21 WMD must be an urgent national security priority
22 because of the threat such access poses to the Amer-
23 ican people. The President should develop a com-
24 prehensive plan to dramatically accelerate the time-
25 table for securing all nuclear weapons-usable mate-

1 rial around the world and request the necessary re-
2 sources to complete this task. The President should
3 publicly state this goal and ensure its fulfillment.

4 (5) Congress should provide the resources need-
5 ed to secure vulnerable materials as quickly as pos-
6 sible.

7 (b) RECOMMENDATIONS OF 9/11 COMMISSION.—
8 Congress further finds that the 9/11 Commission has
9 made the following recommendations:

10 (1) STRENGTHEN “COUNTER-PROLIFERATION”
11 EFFORTS.—The United States should work with the
12 international community to develop laws and an
13 international legal regime with universal jurisdiction
14 to enable any state in the world to capture, interdict,
15 and prosecute smugglers of nuclear material.

16 (2) EXPAND THE PROLIFERATION SECURITY
17 INITIATIVE.—In carrying out the Proliferation Secu-
18 rity Initiative (PSI), the United States should—

19 (A) use intelligence and planning resources
20 of the North Atlantic Treaty Organization
21 (NATO) alliance;

22 (B) make participation open to non-NATO
23 countries; and

24 (C) encourage Russia and the People’s Re-
25 public of China to participate.

1 (3) SUPPORT THE COOPERATIVE THREAT RE-
2 DUCTION PROGRAM.—The United States should ex-
3 pand, improve, increase resources for, and otherwise
4 fully support the Cooperative Threat Reduction
5 (CTR) program.

6 **SEC. 1202. DEFINITIONS.**

7 In this title:

8 (1) The terms “prevention of weapons of mass
9 destruction proliferation and terrorism” and “pre-
10 vention of WMD proliferation and terrorism” in-
11 clude activities under—

12 (A) the programs specified in section
13 1501(b) of the National Defense Authorization
14 Act for Fiscal Year 1997 (Public Law 104–201;
15 110 Stat. 2731; 50 U.S.C. 2362 note);

16 (B) the programs for which appropriations
17 are authorized by section 3101(a)(2) of the Bob
18 Stump National Defense Authorization Act for
19 Fiscal Year 2003 (Public Law 107–314; 116
20 Stat. 2458);

21 (C) programs authorized by section 504 of
22 the Freedom for Russia and Emerging Eur-
23 asian Democracies and Open Markets Support
24 Act of 1992 (the FREEDOM Support Act) (22
25 U.S.C. 5854) and programs authorized by sec-

1 tion 1412 of the Former Soviet Union Demili-
2 tarization Act of 1992 (22 U.S.C. 5902); and

3 (D) a program of any agency of the Fed-
4 eral Government having a purpose similar to
5 that of any of the programs identified in sub-
6 paragraphs (A) through (C), as designated by
7 the United States Coordinator for the Preven-
8 tion of Weapons of Mass Destruction Prolifera-
9 tion and Terrorism and the head of the agency.

10 (2) The terms “weapons of mass destruction”
11 and “WMD” mean chemical, biological, and nuclear
12 weapons, and chemical, biological, and nuclear mate-
13 rials that can be used in the manufacture of such
14 weapons.

15 (3) The term “items of proliferation concern”
16 means equipment or other materials that could be
17 used to develop WMD or for activities involving
18 WMD.

1 **Subtitle A—Repeal and Modifica-**
2 **tion of Limitations on Assist-**
3 **ance for Prevention of WMD**
4 **Proliferation and Terrorism**

5 **SEC. 1211. REPEAL AND MODIFICATION OF LIMITATIONS**
6 **ON ASSISTANCE FOR PREVENTION OF WEAP-**
7 **ONS OF MASS DESTRUCTION PROLIFERATION**
8 **AND TERRORISM.**

9 Consistent with the recommendations of the 9/11
10 Commission, Congress repeals or modifies the limitations
11 on assistance for prevention of weapons of mass destruc-
12 tion (WMD) proliferation and terrorism as follows:

13 (1) SOVIET NUCLEAR THREAT REDUCTION ACT
14 OF 1991.—Section 211(b) of the Soviet Nuclear
15 Threat Reduction Act of 1991 (title II of Public
16 Law 102–228; 22 U.S.C. 2551 note) is repealed.

17 (2) COOPERATIVE THREAT REDUCTION ACT OF
18 1993.—Section 1203(d) of the Cooperative Threat
19 Reduction Act of 1993 (title XII of Public Law
20 103–160; 22 U.S.C. 5952(d)) is repealed.

21 (3) RUSSIAN CHEMICAL WEAPONS DESTRUC-
22 TION FACILITIES.—Section 1305 of the National De-
23 fense Authorization Act for Fiscal Year 2000 (Pub-
24 lic Law 106–65; 22 U.S.C. 5952 note) is repealed.

1 (4) AUTHORITY TO USE COOPERATIVE THREAT
2 REDUCTION FUNDS OUTSIDE THE FORMER SOVIET
3 UNION—MODIFICATION OF CERTIFICATION RE-
4 QUIREMENT; REPEAL OF FUNDING LIMITATION;
5 CONGRESSIONAL NOTICE REQUIREMENT.—Section
6 1308 of the National Defense Authorization Act for
7 Fiscal Year 2004 (Public Law 108–136; 22 U.S.C.
8 5963) is amended—

9 (A) in subsection (a)—

10 (i) by striking “the President may”
11 and inserting “the Secretary of Defense
12 may”; and

13 (ii) by striking “if the President” and
14 inserting “if the Secretary of Defense, with
15 the concurrence of the Secretary of
16 State,”;

17 (B) by striking subsection (c);

18 (C) in subsection (d)(1)—

19 (i) by striking “The President may
20 not” and inserting “The Secretary of De-
21 fense may not”; and

22 (ii) by striking “until the President”
23 and inserting “until the Secretary of De-
24 fense”;

25 (D) in subsection (d)(2)—

1 (i) by striking “Not later than 10
2 days after” and inserting “Not later than
3 15 days prior to”;

4 (ii) by striking “the President shall”
5 and inserting “the Secretary of Defense
6 shall”; and

7 (iii) by striking “Congress” and in-
8 serting “the Committee on Armed Services
9 and the Committee on Foreign Affairs of
10 the House of Representatives and the
11 Committee on Armed Services and Com-
12 mittee on Foreign Relations of the Sen-
13 ate”; and

14 (E) in subsection (d) by adding at the end
15 the following:

16 “(3) In the case of a situation that threatens human
17 life or safety or where a delay would severely undermine
18 the national security of the United States, notification
19 under paragraph (2) shall be made not later than 10 days
20 after obligating funds under the authority in subsection
21 (a) for a project or activity.”.

22 (5) AUTHORITY TO USE INTERNATIONAL NU-
23 CLEAR MATERIALS PROTECTION AND COOPERATION
24 PROGRAM FUNDS OUTSIDE THE FORMER SOVIET
25 UNION—MODIFICATION OF CERTIFICATION RE-

1 QUIREMENT; REPEAL OF FUNDING LIMITATION;
2 CONGRESSIONAL NOTICE REQUIREMENT.—Section
3 3124 of the National Defense Authorization Act for
4 Fiscal Year 2004 (Public Law 108–136; 117 Stat.
5 1747) is amended—

6 (A) in subsection (a)—

7 (i) by striking “the President may”
8 and inserting “the Secretary of Energy
9 may”; and

10 (ii) by striking “if the President” and
11 inserting “if the Secretary of Energy, with
12 the concurrence of the Secretary of
13 State,”;

14 (B) by striking subsection (c);

15 (C) in subsection (d)(1)—

16 (i) by striking “The President may
17 not” and inserting “The Secretary of En-
18 ergy may not”; and

19 (ii) by striking “until the President”
20 and inserting “until the Secretary of En-
21 ergy”;

22 (D) in subsection (d)(2)—

23 (i) by striking “Not later than 10
24 days after” and inserting “Not later than
25 15 days prior to”;

1 (ii) by striking “the President shall”
2 and inserting “the Secretary of Energy
3 shall”; and

4 (iii) by striking “Congress” and in-
5 serting “the Committee on Armed Services
6 and the Committee on Foreign Affairs of
7 the House of Representatives and the
8 Committee on Armed Services and Com-
9 mittee on Foreign Relations of the Sen-
10 ate”; and

11 (E) in subsection (d) by adding at the end
12 the following:

13 “(3) In the case of a situation that threatens human
14 life or safety or where a delay would severely undermine
15 the national security of the United States, notification
16 under paragraph (2) shall be made not later than 10 days
17 after obligating funds under the authority in subsection
18 (a) for a project or activity.”.

19 **Subtitle B—Proliferation Security** 20 **Initiative**

21 **SEC. 1221. PROLIFERATION SECURITY INITIATIVE IM-** 22 **PROVEMENTS AND AUTHORITIES.**

23 (a) SENSE OF CONGRESS.—It is the sense of Con-
24 gress, consistent with the 9/11 Commission’s rec-
25 ommendations, that the President should strive to expand

1 and strengthen the Proliferation Security Initiative (PSI)
2 announced by the President on May 31, 2003, with a par-
3 ticular emphasis on the following:

4 (1) Issuing a presidential directive to the rel-
5 evant government agencies and departments that es-
6 tablishes a defined annual budget and clear authori-
7 ties, and provides other necessary resources and
8 structures to achieve more efficient and effective
9 performance of United States PSI-related activities.

10 (2) Working with the United Nations Security
11 Council to develop a resolution to authorize the PSI
12 under international law.

13 (3) Increasing PSI cooperation with non-NATO
14 partners.

15 (4) Implementing the recommendations of the
16 Government Accountability Office (GAO) in the Sep-
17 tember 2006 report titled “Better Controls Needed
18 to Plan and Manage Proliferation Security Initiative
19 Activities” (GAO–06–937C), including the following:

20 (A) The Department of Defense and the
21 Department of State should establish clear PSI
22 roles and responsibilities, policies and proce-
23 dures, interagency communication mechanisms,
24 documentation requirements, and indicators to
25 measure program results.

1 (B) The Department of Defense and the
2 Department of State should develop a strategy
3 to work with PSI-participating countries to re-
4 solve issues that are impediments to conducting
5 successful PSI interdictions.

6 (5) Expanding and formalizing the PSI into a
7 multilateral regime to increase coordination, co-
8 operation, and compliance among its participating
9 states in interdiction activities.

10 (b) BUDGET SUBMISSION.—The Secretary of State
11 and the Secretary of Defense shall submit a defined budg-
12 et for the PSI, beginning with the budget submissions for
13 their respective departments for fiscal year 2009.

14 (c) IMPLEMENTATION REPORT.—Not later than 180
15 days after the date of the enactment of this Act, the Presi-
16 dent shall transmit to the Committee on Armed Services
17 and the Committee on Foreign Affairs of the House of
18 Representatives and the Committee on Armed Services
19 and the Committee on Foreign Relations of the Senate
20 a report on the implementation of this section. The report
21 shall include—

22 (1) the steps taken to implement the rec-
23 ommendations described in paragraph (4) of sub-
24 section (a); and

1 (2) the progress made toward implementing the
2 matters described in paragraphs (1), (2), (3), and
3 (5) of subsection (a).

4 (d) GAO ANNUAL REPORT.—The Government Ac-
5 countability Office shall submit to Congress, beginning in
6 fiscal year 2007, an annual report with its assessment of
7 the progress and effectiveness of the PSI, which shall in-
8 clude an assessment of the measures referred to in sub-
9 section (a).

10 **SEC. 1222. AUTHORITY TO PROVIDE ASSISTANCE TO COOP-**
11 **ERATIVE COUNTRIES.**

12 (a) IN GENERAL.—The President is authorized to
13 provide, on such terms as the President considers appro-
14 priate, assistance under subsection (b) to any country that
15 cooperates with the United States and with other coun-
16 tries allied with the United States to prevent the transport
17 and transshipment of items of proliferation concern in its
18 national territory or airspace or in vessels under its control
19 or registry.

20 (b) TYPES OF ASSISTANCE.—The assistance author-
21 ized under subsection (a) consists of the following:

22 (1) Assistance under section 23 of the Arms
23 Export Control Act (22 U.S.C. 2763).

1 (2) Assistance under chapters 4 (22 U.S.C.
2 2346 et seq.) and 5 (22 U.S.C. 2347 et seq.) of part
3 II of the Foreign Assistance Act of 1961.

4 (3) Drawdown of defense excess defense articles
5 and services under section 516 of the Foreign As-
6 sistance Act of 1961 (22 U.S.C. 2321j).

7 (c) CONGRESSIONAL NOTIFICATION.—Assistance au-
8 thorized under this section may not be provided until at
9 least 30 days after the date on which the President has
10 provided notice thereof to the Committee on Armed Serv-
11 ices, the Committee on Foreign Affairs, and the Com-
12 mittee on Appropriations of the House of Representatives
13 and the Committee on Armed Services, the Committee on
14 Foreign Relations, and the Committee on Appropriations
15 of the Senate, in accordance with the procedures applica-
16 ble to reprogramming notifications under section 634A(a)
17 of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-
18 1(a)), and has certified to such committees that such as-
19 sistance will be used in accordance with the requirement
20 of subsection (e) of this section.

21 (d) LIMITATION.—Assistance may be provided to a
22 country under section (a) in no more than three fiscal
23 years.

24 (e) USE OF ASSISTANCE.—Assistance provided under
25 this section shall be used to enhance the capability of the

1 recipient country to prevent the transport and trans-
2 shipment of items of proliferation concern in its national
3 territory or airspace, or in vessels under its control or reg-
4 istry, including through the development of a legal frame-
5 work in that country, consistent with any international
6 laws or legal authorities governing the PSI, to enhance
7 such capability by criminalizing proliferation, enacting
8 strict export controls, and securing sensitive materials
9 within its borders, and to enhance the ability of the recipi-
10 ent country to cooperate in operations conducted with
11 other participating countries.

12 (f) LIMITATION ON SHIP OR AIRCRAFT TRANSFERS
13 TO UNCOOPERATIVE COUNTRIES.—Notwithstanding any
14 other provision of law, the United States may not transfer
15 any excess defense article that is a vessel or an aircraft
16 to a country that has not agreed that it will support and
17 assist efforts by the United States to interdict items of
18 proliferation concern until thirty days after the date on
19 which the President has provided notice of the proposed
20 transfer to the appropriate congressional committees in
21 accordance with the procedures applicable to reprogram-
22 ming notifications under section 634A(a) of the Foreign
23 Assistance Act of 1961 (22 U.S.C. 2394-1(a)), in addition
24 to any other requirement of law.

1 **Subtitle C—Assistance to Accel-**
2 **erate Programs to Prevent**
3 **Weapons of Mass Destruction**
4 **Proliferation and Terrorism**

5 **SEC. 1231. FINDINGS; STATEMENT OF POLICY.**

6 (a) FINDINGS.—Congress is aware that certain
7 United States threat reduction and nonproliferation pro-
8 grams have in past years encountered obstacles to timely
9 obligating and executing the full amount of appropriated
10 funds, and that certain United States threat reduction and
11 nonproliferation programs currently encounter such obsta-
12 cles and therefore maintain unobligated and uncosted bal-
13 ances. Such obstacles include lack of effective policy guid-
14 ance, limits on program scope, practical inefficiencies, lack
15 of cooperation with other countries, and lack of effective
16 leadership to overcome such obstacles.

17 (b) STATEMENT OF POLICY.—It shall be the policy
18 of the United States, consistent with the 9/11 Commis-
19 sion's recommendations, to eliminate the obstacles de-
20 scribed in subsection (a) with concrete measures, such as
21 those described in this title, to accelerate and strengthen
22 progress on preventing weapons of mass destruction
23 (WMD) proliferation and terrorism. Such measures de-
24 scribed in this title include the removal and modification
25 of statutory limits to executing funds, the expansion and

1 strengthening of the PSI, the establishment of the Office
2 of the United States Coordinator for the Prevention of
3 Weapons of Mass Destruction Proliferation and Terrorism
4 under subtitle D, and the establishment of the Commis-
5 sion on the Prevention of Weapons of Mass Destruction
6 Proliferation and Terrorism under subtitle E. As a result,
7 Congress intends that any funds authorized to be appro-
8 priated to programs for preventing WMD proliferation
9 and terrorism under this section will be executed in a time-
10 ly manner.

11 **SEC. 1232. AUTHORIZATION OF APPROPRIATIONS FOR THE**
12 **DEPARTMENT OF DEFENSE COOPERATIVE**
13 **THREAT REDUCTION PROGRAM.**

14 (a) FISCAL YEAR 2007.—In addition to any other
15 amounts authorized to be appropriated, there are author-
16 ized to be appropriated to the Department of Defense Co-
17 operative Threat Reduction Program such sums as may
18 be necessary for fiscal year 2007 for the following pur-
19 poses:

- 20 (1) Biological weapons proliferation prevention.
21 (2) Chemical weapons destruction at
22 Shchuch'ye, Russia.
23 (3) Acceleration, expansion, and strengthening
24 of all CTR activities.

1 (b) FUTURE YEARS.—It is the sense of Congress that
2 in fiscal year 2008 and future fiscal years, the President
3 should accelerate and expand funding for Cooperative
4 Threat Reduction programs administered by the Depart-
5 ment of Defense and such efforts should include, begin-
6 ning upon enactment of this Act, encouraging additional
7 commitments by the Russian Federation and other part-
8 ner nations, as recommended by the 9/11 Commission.

9 **SEC. 1233. AUTHORIZATION OF APPROPRIATIONS FOR THE**
10 **DEPARTMENT OF ENERGY PROGRAMS TO**
11 **PREVENT WEAPONS OF MASS DESTRUCTION**
12 **PROLIFERATION AND TERRORISM.**

13 In addition to any other amounts authorized to be
14 appropriated, there are authorized to be appropriated to
15 the Department of Energy National Nuclear Security Ad-
16 ministration such sums as may be necessary for fiscal year
17 2007 for programs to prevent weapons of mass destruction
18 (WMD) proliferation and terrorism, to be used as follows:

19 (1) To accelerate, expand, and strengthen the
20 Global Threat Reduction Initiative (GTRI), with a
21 particular emphasis on—

22 (A) the Russian research reactor fuel re-
23 turn program;

24 (B) international radiological threat reduc-
25 tion;

1 (C) emerging threats and gap material;
2 and

3 (D) development of quick response and
4 short-term capabilities to secure and remove
5 WMD materials throughout the world.

6 (2) To accelerate, expand, and strengthen the
7 Nonproliferation and International Security (NIS)
8 program, with a particular emphasis on—

9 (A) global security and engagement, and
10 cooperation with the People's Republic of
11 China, India, and other states;

12 (B) activities to address emerging pro-
13 liferation concerns in North Korea, Iran, and
14 elsewhere;

15 (C) participation in negotiations regarding
16 North Korea's nuclear programs;

17 (D) inter-agency participation in the Pro-
18 liferation Security Initiative (PSI);

19 (E) technical and other assistance to the
20 International Atomic Energy Agency (IAEA) to
21 support efforts to increase the IAEA's capacity
22 to secure vulnerable WMD materials worldwide
23 and prevent WMD proliferation and terrorism;

24 (F) efforts to increase United States abil-
25 ity to help states around the world place the

1 “effective controls” on WMD and related mate-
2 rials and technology mandated by United Na-
3 tions Security Council Resolution 1540 (2004);

4 (G) cooperation on international safe-
5 guards and export controls in South Asia, the
6 Middle East, and other regions;

7 (H) efforts to strengthen United States
8 commitments to international regimes and
9 agreements; and

10 (I) establishment of a contingency fund for
11 opportunities to prevent WMD proliferation and
12 terrorism that arise.

13 (3) To accelerate, expand, and strengthen the
14 International Materials Protection, Control and Ac-
15 counting (MPC&A) program, with a particular em-
16 phasis on—

17 (A) implementation of physical protection
18 and material control and accounting upgrades
19 at sites;

20 (B) national programs and sustainability
21 activities in Russia;

22 (C) material consolidation and conversion
23 (including significant acceleration of the down-
24 blending of highly-enriched uranium to low-en-
25 riched uranium, the removal of highly-enriched

1 uranium from facilities, and international par-
2 ticipation in these efforts);

3 (D) efforts to strengthen cooperation with
4 Russia;

5 (E) implementation of Second Line of De-
6 fense Megaports agreements;

7 (F) implementation of Department of En-
8 ergy actions under the Security and Account-
9 ability for Every Port Act of 2006 (also known
10 as the SAFE Port Act; Public Law 109–347);
11 and

12 (G) promoting and facilitating worldwide
13 the promulgation of best practices for security
14 of weapons usable and other nuclear materials.

15 (4) To accelerate, expand, and strengthen the
16 Research and Development program, with a par-
17 ticular emphasis on—

18 (A) improvement of United States govern-
19 ment capability for both short and long-term,
20 and innovative, research and development that
21 addresses emerging WMD proliferation and ter-
22 rorism concerns and will maintain United
23 States technological advantage, including the
24 capacity to detect nuclear material origin, ura-

1 nium enrichment, and plutonium reprocessing;
2 and
3 (B) efforts to significantly expand the sci-
4 entific research and development skills and re-
5 sources available to the Department of Energy's
6 programs to prevent WMD proliferation and
7 terrorism.

8 **Subtitle D—Office of the United**
9 **States Coordinator for the Pre-**
10 **vention of Weapons of Mass De-**
11 **struction Proliferation and Ter-**
12 **rorism**

13 **SEC. 1241. OFFICE OF THE UNITED STATES COORDINATOR**
14 **FOR THE PREVENTION OF WEAPONS OF MASS**
15 **DESTRUCTION PROLIFERATION AND TER-**
16 **RORISM.**

17 (a) ESTABLISHMENT.—There is established within
18 the Executive Office of the President an office to be known
19 as the “Office of the United States Coordinator for the
20 Prevention of Weapons of Mass Destruction Proliferation
21 and Terrorism” (in this subtitle referred to as the “Of-
22 fice”).

23 (b) OFFICERS.—

24 (1) UNITED STATES COORDINATOR.—The head
25 of the Office shall be the United States Coordinator

1 of the Office (in this subtitle referred to as the “Co-
2 ordinator”).

3 (2) DEPUTY UNITED STATES COORDINATOR.—

4 There shall be a Deputy United States Coordinator
5 of the Office (in this subtitle referred to as the
6 “Deputy Coordinator”), who shall—

7 (A) assist the Coordinator in carrying out
8 the responsibilities of the Coordinator under
9 this subtitle; and

10 (B) serve as Acting Coordinator in the ab-
11 sence of the Coordinator and during any va-
12 cancy in the office of Coordinator.

13 (3) APPOINTMENT.—The Coordinator and Dep-
14 uty Coordinator shall be appointed by the President,
15 by and with the advice and consent of the Senate,
16 and shall be responsible on a full-time basis for the
17 duties and responsibilities described in this section.

18 (4) LIMITATION.—No person shall serve as Co-
19 ordinator or Deputy Coordinator while serving in
20 any other position in the Federal Government.

21 (c) DUTIES.—The responsibilities of the Coordinator
22 shall include the following:

23 (1) Serving as the advisor to the President on
24 all matters relating to the prevention of weapons of

1 mass destruction (WMD) proliferation and ter-
2 rorism.

3 (2) Formulating a comprehensive and well-co-
4 ordinated United States strategy and policies for
5 preventing WMD proliferation and terrorism, includ-
6 ing—

7 (A) measurable milestones and targets to
8 which departments and agencies can be held ac-
9 countable;

10 (B) identification of gaps, duplication, and
11 other inefficiencies in existing activities, initia-
12 tives, and programs and the steps necessary to
13 overcome these obstacles;

14 (C) plans for preserving the nuclear secu-
15 rity investment the United States has made in
16 Russia, the former Soviet Union, and other
17 countries;

18 (D) prioritized plans to accelerate,
19 strengthen, and expand the scope of existing
20 initiatives and programs, which include identi-
21 fication of vulnerable sites and material and the
22 corresponding actions necessary to eliminate
23 such vulnerabilities;

24 (E) new and innovative initiatives and pro-
25 grams to address emerging challenges and

1 strengthen United States capabilities, including
2 programs to attract and retain top scientists
3 and engineers and strengthen the capabilities of
4 United States national laboratories;

5 (F) plans to coordinate United States ac-
6 tivities, initiatives, and programs relating to the
7 prevention of WMD proliferation and terrorism,
8 including those of the Department of Energy,
9 Department of Defense, Department of State,
10 and Department of Homeland Security, and in-
11 cluding the Proliferation Security Initiative, the
12 G-8 Global Partnership Against the Spread of
13 Weapons and Materials of Mass Destruction,
14 United Nations Security Council Resolution
15 1540, and the Global Initiative to Combat Nu-
16 clear Terrorism;

17 (G) plans to strengthen United States
18 commitments to international regimes and sig-
19 nificantly improve cooperation with other coun-
20 tries relating to the prevention of WMD pro-
21 liferation and terrorism, with particular empha-
22 sis on work with the international community to
23 develop laws and an international legal regime
24 with universal jurisdiction to enable any state
25 in the world to interdict and prosecute smug-

1 glers of WMD material, as recommended by the
2 9/11 Commission; and

3 (H) identification of actions necessary to
4 implement the recommendations of the Com-
5 mission on the Prevention of Weapons of Mass
6 Destruction Proliferation and Terrorism estab-
7 lished under subtitle E of this title.

8 (3) Leading inter-agency coordination of United
9 States efforts to implement the strategy and policies
10 described in this section.

11 (4) Conducting oversight and evaluation of ac-
12 celerated and strengthened implementation of initia-
13 tives and programs to prevent WMD proliferation
14 and terrorism by relevant government departments
15 and agencies.

16 (5) Overseeing the development of a comprehen-
17 sive and coordinated budget for programs and initia-
18 tives to prevent WMD proliferation and terrorism,
19 ensuring that such budget adequately reflects the
20 priority of the challenges and is effectively executed,
21 and carrying out other appropriate budgetary au-
22 thorities.

23 (d) STAFF.—The Coordinator may appoint and ter-
24 minate such personnel as may be necessary to enable the
25 Coordinator to perform his or her duties.

1 (e) CONSULTATION WITH COMMISSION.—The Office
2 and the Coordinator shall regularly consult with and strive
3 to implement the recommendations of the Commission on
4 the Prevention of Weapons of Mass Destruction Prolifera-
5 tion and Terrorism, established under subtitle E of this
6 title.

7 (f) ANNUAL REPORT ON STRATEGIC PLAN.—For fis-
8 cal year 2009 and each fiscal year thereafter, the Coordi-
9 nator shall submit to Congress, at the same time as the
10 submission of the budget for that fiscal year under title
11 31, United States Code, a report on the strategy and poli-
12 cies developed pursuant to subsection (c)(2), together with
13 any recommendations of the Coordinator for legislative
14 changes that the Coordinator considers appropriate with
15 respect to such strategy and policies and their implemen-
16 tation or the Office of the Coordinator.

17 **SEC. 1242. REQUEST FOR CORRESPONDING RUSSIAN COOR-**
18 **DINATOR.**

19 It is the sense of the Congress that, as soon as prac-
20 tical, the President should personally request the Presi-
21 dent of the Russian Federation to designate an official of
22 the Russian Federation having authorities and responsibil-
23 ities for preventing weapons of mass destruction (WMD)
24 proliferation and terrorism commensurate with those of
25 the Coordinator, and with whom the Coordinator should

1 coordinate planning and implementation of activities in
2 the Russian Federation having the purpose of preventing
3 WMD proliferation and terrorism.

4 **Subtitle E—Commission on the**
5 **Prevention of Weapons of Mass**
6 **Destruction Proliferation and**
7 **Terrorism**

8 **SEC. 1251. COMMISSION ON THE PREVENTION OF WEAPONS**
9 **OF MASS DESTRUCTION PROLIFERATION**
10 **AND TERRORISM.**

11 There is established the Commission on the Preven-
12 tion of Weapons of Mass Destruction Proliferation and
13 Terrorism (in this subtitle referred to as the “Commis-
14 sion”).

15 **SEC. 1252. PURPOSES.**

16 (a) IN GENERAL.—The purposes of the Commission
17 are to—

18 (1) assess current activities, initiatives, and
19 programs to prevent WMD proliferation and ter-
20 rorism; and

21 (2) provide a clear and comprehensive strategy
22 and concrete recommendations for such activities,
23 initiatives, and programs.

24 (b) IN PARTICULAR.—The Commission shall give
25 particular attention to activities, initiatives, and programs

1 to secure all nuclear weapons-usable material around the
2 world and to significantly accelerate, expand, and
3 strengthen, on an urgent basis, United States and inter-
4 national efforts to prevent, stop, and counter the spread
5 of nuclear weapons capabilities and related equipment,
6 material, and technology to terrorists and states of con-
7 cern.

8 **SEC. 1253. COMPOSITION.**

9 (a) MEMBERS.—The Commission shall be composed
10 of 9 members, of whom—

11 (1) 3 members shall be appointed by the Presi-
12 dent;

13 (2) 2 members shall be appointed by the major-
14 ity leader of the Senate;

15 (3) 1 member shall be appointed by the minor-
16 ity leader of the Senate;

17 (4) 2 members shall be appointed by the Speak-
18 er of the House of Representatives; and

19 (5) 1 member shall be appointed by the minor-
20 ity leader of the House of Representatives.

21 (b) CO-CHAIRMEN.—The Commission shall have two
22 co-chairmen designated from among the members of the
23 Commission. Of the co-chairmen—

24 (1) 1 shall be designated by the President; and

1 (2) 1 shall be designated jointly by the majority
2 leader of the Senate and the Speaker of the House
3 of Representatives.

4 (c) DEADLINE FOR APPOINTMENT.—All members of
5 the Commission shall be appointed within 90 days of the
6 date of the enactment of this Act.

7 (d) INITIAL MEETING.—The Commission shall meet
8 and begin the operations of the Commission as soon as
9 practicable.

10 (e) QUORUM; VACANCIES.—After its initial meeting,
11 the Commission shall meet upon the call of the co-chair-
12 men or a majority of its members. Six members of the
13 Commission shall constitute a quorum. Any vacancy in the
14 Commission shall not affect its powers, but shall be filled
15 in the same manner in which the original appointment was
16 made.

17 **SEC. 1254. RESPONSIBILITIES.**

18 (a) IN GENERAL.—The Commission shall address—

19 (1) the roles, missions, and structure of all rel-
20 evant government departments, agencies, and other
21 actors, including the Office of the United States Co-
22 ordinator for the Prevention of Weapons of Mass
23 Destruction Proliferation and Terrorism established
24 under subtitle D of this title;

25 (2) inter-agency coordination;

1 (3) United States commitments to international
2 regimes and cooperation with other countries; and

3 (4) the threat of weapons of mass destruction
4 proliferation and terrorism to the United States and
5 its interests and allies, including the threat posed by
6 black-market networks, and the effectiveness of the
7 responses by the United States and the international
8 community to such threats.

9 (b) FOLLOW-ON BAKER-CUTLER REPORT.—The
10 Commission shall also reassess, and where necessary up-
11 date and expand on, the conclusions and recommendations
12 of the report titled “A Report Card on the Department
13 of Energy’s Nonproliferation Programs with Russia” of
14 January 2001 (also known as the “Baker-Cutler Report”)
15 and implementation of such recommendations.

16 **SEC. 1255. POWERS.**

17 (a) HEARINGS AND EVIDENCE.—The Commission or,
18 on the authority of the Commission, any subcommittee or
19 member thereof, may, for the purpose of carrying out this
20 subtitle, hold such hearings and sit and act at such times
21 and places, take such testimony, receive such evidence,
22 and administer such oaths as the Commission or such des-
23 ignate subcommittee or designated member may deter-
24 mine advisable.

1 (b) CONTRACTING.—The Commission may, to such
2 extent and in such amounts as are provided in appropria-
3 tions Acts, enter into contracts to enable the Commission
4 to discharge its duties under this subtitle.

5 (c) INFORMATION FROM FEDERAL AGENCIES.—

6 (1) IN GENERAL.—The Commission is author-
7 ized to secure directly from any executive depart-
8 ment, bureau, agency, board, commission, office,
9 independent establishment, or instrumentality of the
10 Government, information, suggestions, estimates,
11 and statistics for the purposes of this subtitle. Each
12 department, bureau, agency, board, commission, of-
13 fice, independent establishment, or instrumentality
14 shall, to the extent authorized by law, furnish such
15 information, suggestions, estimates, and statistics di-
16 rectly to the Commission, upon request made by the
17 co-chairmen, the chairman of any subcommittee cre-
18 ated by a majority of the Commission, or any mem-
19 ber designated by a majority of the Commission.

20 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
21 SEMINATION.—Information shall only be received,
22 handled, stored, and disseminated by members of
23 the Commission and its staff consistent with all ap-
24 plicable statutes, regulations, and Executive orders.

25 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

1 (1) GENERAL SERVICES ADMINISTRATION.—

2 The Administrator of General Services shall provide
3 to the Commission on a reimbursable basis adminis-
4 trative support and other services for the perform-
5 ance of the Commission's functions.

6 (2) OTHER DEPARTMENTS AND AGENCIES.—In

7 addition to the assistance prescribed in paragraph
8 (1), departments and agencies of the United States
9 may provide to the Commission such services, funds,
10 facilities, staff, and other support services as they
11 may determine advisable and as may be authorized
12 by law.

13 (e) GIFTS.—The Commission may accept, use, and
14 dispose of gifts or donations of services or property.

15 (f) POSTAL SERVICES.—The Commission may use
16 the United States mails in the same manner and under
17 the same conditions as departments and agencies of the
18 United States.

19 **SEC. 1256. NONAPPLICABILITY OF FEDERAL ADVISORY**
20 **COMMITTEE ACT.**

21 (a) IN GENERAL.—The Federal Advisory Committee
22 Act (5 U.S.C. App.) shall not apply to the Commission.

23 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
24 VERSIONS OF REPORTS.—The Commission shall—

1 (1) hold public hearings and meetings to the ex-
2 tent appropriate; and

3 (2) release public versions of the report re-
4 quired under section 1257.

5 (c) PUBLIC HEARINGS.—Any public hearings of the
6 Commission shall be conducted in a manner consistent
7 with the protection of information provided to or developed
8 for or by the Commission as required by any applicable
9 statute, regulation, or Executive order.

10 **SEC. 1257. REPORT.**

11 Not later than 180 days after the appointment of the
12 Commission, the Commission shall submit to the Presi-
13 dent and Congress a final report containing such findings,
14 conclusions, and recommendations for corrective measures
15 as have been agreed to by a majority of Commission mem-
16 bers.

17 **SEC. 1258. TERMINATION.**

18 (a) IN GENERAL.—The Commission, and all the au-
19 thorities of this subtitle, shall terminate 60 days after the
20 date on which the final report is submitted under section
21 1257.

22 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-
23 NATION.—The Commission may use the 60-day period re-
24 ferred to in subsection (a) for the purpose of concluding
25 its activities, including providing testimony to committees

1 of Congress concerning its report and disseminating the
2 final report.

3 **TITLE XIII—NUCLEAR BLACK**
4 **MARKET COUNTER-TERRORISM ACT**

6 **SEC. 1301. SHORT TITLE.**

7 This title may be cited as the “Nuclear Black Market
8 Counter-Terrorism Act of 2007”.

9 **SEC. 1302. DEFINITIONS.**

10 In this title:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means the Committee on Foreign Affairs,
14 the Committee on Armed Services, the Permanent
15 Select Committee on Intelligence, and the Com-
16 mittee on Appropriations of the House of Represent-
17 atives, and the Committee on Foreign Relations, the
18 Committee on Armed Services, the Select Committee
19 on Intelligence, and the Committee on Appropria-
20 tions of the Senate.

21 (2) FOREIGN PERSON.—The term “foreign per-
22 son”—

23 (A) means any person who is not a citizen
24 or national of the United States or lawfully ad-
25 mitted to the United States for permanent resi-

1 dence under the Immigration and Nationality
2 Act;

3 (B) includes any foreign corporation, inter-
4 national organization, or foreign government;
5 and

6 (C) includes, for purposes of subsections
7 (a) and (b) of section 1311, successors, assigns,
8 subsidiaries, and subunits of the person de-
9 scribed in subparagraph (A) or (B) (as the case
10 may be), and other business organizations or
11 associations in which that person may be
12 deemed to have a controlling interest.

13 (3) PERSON.—The term “person”—

14 (A) means a natural person as well as a
15 corporation, business association, partnership,
16 society, trust, any other nongovernmental enti-
17 ty, organization, or group, and any govern-
18 mental entity, or subsidiary, subunit, or parent
19 entity thereof, and any successor of any such
20 entity; and

21 (B) in the case of a country where it may
22 be impossible to identify a specific governmental
23 entity referred to in subparagraph (A), means
24 all activities of that government relating to the

1 development or production of any nuclear
2 equipment or technology.

3 (4) UNITED STATES FOREIGN ASSISTANCE.—

4 The term “United States foreign assistance” means
5 assistance under the foreign operations, export fi-
6 nancing, and related programs appropriations Act
7 for a fiscal year, and assistance under the Foreign
8 Assistance Act of 1961.

9 **Subtitle A—Sanctions for Transfers**
10 **of Nuclear Enrichment, Reproc-**
11 **essing, and Weapons Tech-**
12 **nology, Equipment, and Mate-**
13 **rials Involving Foreign Persons**
14 **and Terrorists**

15 **SEC. 1311. AUTHORITY TO IMPOSE SANCTIONS ON FOREIGN**
16 **PERSONS.**

17 (a) DETERMINATION OF NUCLEAR ACTIVITIES BY
18 FOREIGN PERSONS.—

19 (1) DETERMINATION.—Notwithstanding any
20 other provision of law, the President shall impose
21 the sanctions described in subsection (b) whenever
22 the President determines that a foreign person, on
23 or after the date of the enactment of this Act, par-
24 ticipated in the export, transfer or trade of—

1 (A) nuclear enrichment or reprocessing
2 equipment, materials, or technology to any non-
3 nuclear-weapon state (as defined in section
4 102(c) of the Arms Export Control Act) that—

5 (i) does not possess functioning nu-
6 clear enrichment or reprocessing plants as
7 of January 1, 2004; and

8 (ii)(I) does not have in force an addi-
9 tional protocol with the International
10 Atomic Energy Agency for the application
11 of safeguards (as derived from IAEA docu-
12 ment INFCIRC/540 and related correc-
13 tions and additions); or

14 (II) is developing, manufacturing, or
15 acquiring a nuclear explosive device; or

16 (B) any nuclear explosive device, or design
17 information or component, equipment, mate-
18 rials, or other items or technology that—

19 (i) is designated for national export
20 controls under the Nuclear Supplier Group
21 Guidelines for the Export of Nuclear Mate-
22 rial, Equipment and Technology (published
23 by the International Atomic Energy Agen-
24 cy as IAEA document INFCIRC/254/Rev.
25 6/Part 1 and subsequent revisions) and the

1 Guidelines for Transfers of Nuclear-Re-
2 lated Dual-Use Equipment, Materials,
3 Software and Related Technology (pub-
4 lished as IAEA document INFCIRC/254/
5 Rev. 5/ Part 2 and subsequent revisions);
6 and

7 (ii) contributes to the development,
8 manufacture, or acquisition of a nuclear
9 explosive device by—

10 (I) a non-nuclear weapon state;

11 or

12 (II) a foreign person.

13 (2) DEFINITION.—For purposes of paragraph
14 (1), the term “participated” means sold, transferred,
15 brokered, financed, assisted, delivered, or otherwise
16 provided or received, and includes any conspiracy or
17 attempt to engage in any of such activities, as well
18 as facilitating such activities by any other person.

19 (b) SANCTIONS.—The sanctions referred to in sub-
20 section (a) that are to be imposed on a foreign person are
21 the following:

22 (1) No assistance may be provided to the for-
23 eign person under the Foreign Assistance Act of
24 1961, and the foreign person may not participate in
25 any assistance program of the United States Gov-

1 ernment. Any such assistance being provided to the
2 foreign person, and any participation in such assist-
3 ance program by the foreign person, on the date on
4 which the sanction under this paragraph is imposed
5 shall be terminated as of such date.

6 (2) The United States Government may not ex-
7 port to the foreign person, or grant a license or
8 other approval to export to or import from the for-
9 eign person of, any defense articles, defense services,
10 or design or construction services under the Foreign
11 Assistance Act of 1961 or the Arms Export Control
12 Act. Any contract to export such articles or services,
13 or license or approval to export or import, under ei-
14 ther such Act, that is in effect on the date on which
15 the sanction under this paragraph is imposed shall
16 be terminated as of such date.

17 (3) Licenses or any other approval may not be
18 issued for the export to the foreign person of any
19 goods or technology subject to the jurisdiction of the
20 Export Administration Regulations under chapter
21 VII of title 15, Code of Federal Regulations (or suc-
22 cessor regulations), other than food and other agri-
23 cultural commodities, medicines and medical equip-
24 ment. Any such license or approval that is in effect
25 on the on the date on which the sanction under this

1 paragraph is imposed, shall be terminated as of such
2 date.

3 (4) No department or agency of the United
4 States Government may procure, or enter into any
5 contract for the procurement of, any goods or serv-
6 ices from the foreign person. The Secretary of the
7 Treasury shall prohibit the importation into the
8 United States of goods, technology, or services pro-
9 duced or provided by the foreign person, other than
10 information or informational materials within the
11 meaning of section 203(b)(3) of the International
12 Emergency Economic Powers Act (50 U.S.C.
13 1702(b)(3)).

14 (c) PERIOD SANCTIONS IN EFFECT.—The sanctions
15 referred to in subsection (b) should be imposed for not
16 less than two years, but may be imposed for longer peri-
17 ods. The President may suspend after one year any sanc-
18 tion imposed pursuant to this section 15 days after sub-
19 mitting to the appropriate congressional committees a re-
20 port explaining—

21 (1) the reasons for suspending the sanction;

22 (2) how the purposes of this title and United
23 States national security are furthered by such sus-
24 pension; and

1 (3) what measures the United States will take
2 or is taking to ensure that the foreign person will
3 not engage in similar activities in the future.

4 (d) **WAIVER AUTHORITY.**—The President may waive
5 the imposition of any sanction under subsection (b) if the
6 President certifies to the appropriate congressional com-
7 mittees that the waiver—

8 (1) is important to the national security inter-
9 ests of the United States; and

10 (2) would further the purposes of this title.

11 **SEC. 1312. PRESIDENTIAL NOTIFICATION ON ACTIVITIES**
12 **OF FOREIGN PERSONS.**

13 (a) **REPORTS TO CONGRESS.**—Not later than 180
14 days after the date of enactment of this Act, and not later
15 than January 31 of each year thereafter, the President
16 shall submit to the appropriate congressional committees
17 a report detailing any activity by any foreign person de-
18 scribed in section 1311. This report shall also include a
19 description of any sanctions that have been imposed and
20 their duration.

21 (b) **PUBLICATION.**—When the President imposes
22 sanctions under section 1311, the President shall, to the
23 maximum extent possible in unclassified form, publish in
24 the Federal Register, not later than 15 days after report-
25 ing such sanctions to the appropriate congressional com-

1 mittees under subsection (a), the identity of each sanc-
2 tioned foreign person, the period for which sanctions will
3 be in effect, and the reasons for the sanctions.

4 **Subtitle B—Further Actions**
5 **Against Corporations Associated**
6 **With Sanctioned Foreign Per-**
7 **sons**

8 **SEC. 1321. FINDINGS.**

9 The Congress finds the following:

10 (1) Foreign persons and corporations engaging
11 in nuclear black-market activities are motivated by
12 reasons of commercial gain and profit.

13 (2) Sanctions targeted solely against the busi-
14 ness interests of the sanctioned person or business
15 concern may be unsuccessful in halting these pro-
16 liferation activities, as the sanctions may be seen
17 merely as the cost of doing business, especially if the
18 business interests of the parent or subsidiary cor-
19 porate entities are unaffected by the sanctions.

20 (3) Such narrow targeting of sanctions creates
21 the incentive to create shell and “carve-out” cor-
22 porate entities to perform the proliferation activities
23 and attract sanctions, leaving all other aspects of the
24 larger corporation unaffected.

1 (4) To dissuade corporations from allowing
2 their associated commercial entities or persons from
3 engaging in proliferation black-market activities,
4 they must also be made to suffer financial loss and
5 commercial disadvantage, and parent and subsidiary
6 commercial enterprises must be held responsible for
7 the proliferation activities of their associated enti-
8 ties.

9 (5) If a corporation perceives that the United
10 States Government will do everything possible to
11 make its commercial activity difficult around the
12 world, then that corporation has a powerful commer-
13 cial incentive to prevent any further proliferation ac-
14 tivity by its associated entities.

15 (6) Therefore, the United States Government
16 should seek to increase the risk of commercial loss
17 for associated corporate entities for the proliferation
18 actions of their subsidiaries.

19 **SEC. 1322. CAMPAIGN BY UNITED STATES GOVERNMENT**
20 **OFFICIALS.**

21 The President shall instruct all agencies of the
22 United States Government to make every effort in their
23 interactions with foreign government and business officials
24 to persuade foreign governments and relevant corporations
25 not to engage in any business transaction with a foreign

1 person sanctioned under section 1311, including any enti-
2 ty that is a parent or subsidiary of the sanctioned foreign
3 person, for the duration of the sanctions.

4 **SEC. 1323. COORDINATION.**

5 The Secretary of State shall coordinate the actions
6 of the United States Government under section 1322.

7 **SEC. 1324. REPORT.**

8 Not later than one year after the date of the enact-
9 ment of this Act and annually thereafter, the Secretary
10 of State shall report to the appropriate congressional com-
11 mittees on the actions taken by the United States to carry
12 out section 1322.

13 **Subtitle C—Rollback of Nuclear**
14 **Proliferation Networks**

15 **SEC. 1331. NONPROLIFERATION AS A CONDITION OF**
16 **UNITED STATES ASSISTANCE.**

17 United States foreign assistance should only be pro-
18 vided to countries that—

19 (1) are not cooperating with any non-nuclear-
20 weapon state or any foreign group or individual who
21 may be engaged in, planning, or assisting any inter-
22 national terrorist group in the development of a nu-
23 clear explosive device or its means of delivery and
24 are taking all necessary measures to prevent their
25 nationals and other persons and entities subject to

1 their jurisdiction from participating in such coopera-
2 tion; and

3 (2) are fully and completely cooperating with
4 the United States in its efforts to eliminate nuclear
5 black-market networks or activities.

6 **SEC. 1332. REPORT ON IDENTIFICATION OF NUCLEAR PRO-**
7 **LIFERATION NETWORK HOST COUNTRIES.**

8 (a) REPORT.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of the enactment of this Act and annually
11 thereafter, the President shall submit a report to the
12 appropriate congressional committees that—

13 (A) identifies any country in which manu-
14 facturing, brokering, shipment, transshipment,
15 or other activity occurred in connection with the
16 transactions of the nuclear proliferation net-
17 work that supplied Libya, Iran, North Korea,
18 and possibly other countries or entities; and

19 (B) identifies any country in which manu-
20 facturing, brokering, shipment, transshipment,
21 or other activity occurred for the purpose of
22 supplying nuclear technology, equipment, or
23 material to another country or foreign person
24 that could, in the President's judgment, con-
25 tribute to the development, manufacture, or ac-

1 quisition, of a nuclear explosive device by a
2 country or foreign person of concern to the
3 United States

4 (2) ADDITIONAL INFORMATION.—The report
5 under paragraph (1) shall also include a description
6 of the extent to which each country described in the
7 report is, in the opinion of the President, fully co-
8 operating with the United States in its efforts to
9 eliminate the nuclear proliferation network described
10 in paragraph (1)(A) or stopping the activities de-
11 scribed in paragraph (1)(B). The President shall
12 base the determination regarding a country's co-
13 operation with the United States in part on the de-
14 gree to which the country has satisfied United
15 States requests for assistance and information, in-
16 cluding whether the United States has asked and
17 been granted direct investigatory access to key per-
18 sons involved in the nuclear proliferation network
19 described in paragraph (1)(A) or the activities de-
20 scribed in paragraph (1)(B).

21 (b) CLASSIFICATION.—Reports under this section
22 shall be unclassified to the maximum extent possible.

1 **SEC. 1333. SUSPENSION OF ARMS SALES LICENSES AND DE-**
2 **LIVERIES TO NUCLEAR PROLIFERATION**
3 **HOST COUNTRIES.**

4 (a) SUSPENSION.—Upon submission of the report
5 and any additional information under section 1332 to the
6 appropriate congressional committees, the President shall
7 suspend all licenses issued under the Arms Export Control
8 Act, and shall prohibit any licenses to be issued under that
9 Act, for exports to, or imports from, any country described
10 in the report, unless the President certifies to the appro-
11 priate congressional committees that such country—

12 (1)(A) has fully investigated or is fully inves-
13 tigating the activities of any person or entity within
14 its territory that has participated in the nuclear pro-
15 liferation network described in section 1332(a)(1)(A)
16 or the activities described in section 1332(a)(1)(B);
17 and

18 (B) has taken or is taking effective steps to
19 permanently halt similar illicit nuclear proliferation
20 activities;

21 (2) has been or is fully cooperating with the
22 United States and other appropriate international
23 organizations in investigating and eliminating the
24 nuclear proliferation network, any successor net-
25 works operating within its territory, or other illicit
26 nuclear proliferation activities; and

1 (3) has enacted or is enacting new laws, pro-
2 mulgated decrees or regulations, or established prac-
3 tices designed to prevent future such activities from
4 occurring within its territory.

5 (b) WAIVER.—The President may waive the require-
6 ments of subsection (a) in a fiscal year if—

7 (1) the President has certified to the appro-
8 priate congressional committees that the waiver is
9 important to the national security of the United
10 States; and

11 (2) at least 5 days have elapsed since making
12 the certification under paragraph (1).

13 **TITLE XIV—9/11 COMMISSION**
14 **INTERNATIONAL IMPLEMEN-**
15 **TATION**

16 **SEC. 1401. SHORT TITLE; TABLE OF CONTENTS.**

17 This title may be cited as the “9/11 Commission
18 International Implementation Act of 2007”.

19 **Subtitle A—Quality Educational**
20 **Opportunities in Arab and Pre-**
21 **dominantly Muslim Countries.**

22 **SEC. 1411. FINDINGS; POLICY.**

23 (a) FINDINGS.—Congress makes the following find-
24 ings:

1 (1) The report of the National Commission on
2 Terrorist Attacks Upon the United States stated
3 that “[e]ducation that teaches tolerance, the dignity
4 and value of each individual, and respect for dif-
5 ferent beliefs is a key element in any global strategy
6 to eliminate Islamic terrorism”.

7 (2) The report of the National Commission on
8 Terrorist Attacks Upon the United States concluded
9 that ensuring educational opportunity is essential to
10 the efforts of the United States to defeat global ter-
11 rorism and recommended that the United States
12 Government “should offer to join with other nations
13 in generously supporting [spending funds] ... directly
14 on building and operating primary and secondary
15 schools in those Muslim states that commit to sen-
16 sibly investing financial resources in public edu-
17 cation”.

18 (3) While Congress endorsed such a program in
19 the Intelligence Reform and Terrorism Prevention
20 Act of 2004 (Public Law 108–458), such a program
21 has not been established.

22 (b) POLICY.—It is the policy of the United States—

23 (1) to work toward the goal of dramatically in-
24 creasing the availability of modern basic education
25 through public schools in Arab and predominantly

1 Muslim countries, which will reduce the influence of
2 radical madrassas and other institutions that pro-
3 mote religious extremism;

4 (2) to join with other countries in generously
5 supporting the International Arab and Muslim
6 Youth Opportunity Fund authorized under section
7 7114 of the Intelligence Reform and Terrorism Pre-
8 vention Act of 2004, as amended by section 1412 of
9 this Act, with the goal of building and operating
10 public primary and secondary schools in Arab and
11 predominantly Muslim countries that commit to sen-
12 sibly investing the resources of such countries in
13 modern public education;

14 (3) to offer additional incentives to increase the
15 availability of modern basic education in Arab and
16 predominantly Muslim countries; and

17 (4) to work to prevent financing of educational
18 institutions that support radical Islamic fundamen-
19 talism.

20 **SEC. 1412. INTERNATIONAL ARAB AND MUSLIM YOUTH OP-**
21 **PORTUNITY FUND.**

22 Section 7114 of the Intelligence Reform and Ter-
23 rorism Prevention Act of 2004 (22 U.S.C. 2228) is
24 amended to read as follows:

1 **“SEC. 7114. INTERNATIONAL ARAB AND MUSLIM YOUTH OP-**
2 **PORTUNITY FUND.**

3 “(a) FINDINGS.—Congress finds the following:

4 “(1) The United Nation’s 2003 Arab Human
5 Development Report states that the quantitative ex-
6 pansion of Arab education remains incomplete. The
7 report asserts that high rates of illiteracy, especially
8 among women, persist. Children continue to be de-
9 nied their basic right to elementary education. High-
10 er education is characterized by decreasing enroll-
11 ment rates compared to developed countries, and
12 public expenditures on education has declined since
13 1985.

14 “(2) The UN report cities the decline in quality
15 as the most significant challenge in the educational
16 arena in Arab countries.

17 “(3) Researchers argue that curricula taught in
18 Arab countries seem to encourage submission, obedi-
19 ence, subordination, and compliance, rather than
20 free critical thinking.

21 “(4) Despite major efforts to improve pre-
22 school education in some Arab countries, the quality
23 of education provided in kindergartens in the region
24 does not fulfill the requirements for advancing and
25 developing children’s capabilities in order to help so-
26 cialize a creative and innovative generation.

1 “(5) Many factors in Arab countries adversely
2 affect teachers’ capabilities, such as low salaries
3 (which force educators in to take on other jobs that
4 consume their energy and decrease the time they can
5 devote to caring for their students), lack of facilities,
6 poorly designed curricula, indifferent quality of
7 teacher training, and overcrowded classes.

8 “(6) Educational attainments in Arab and non-
9 Arab Muslim countries—from literacy rates to math-
10 ematical and science achievements—are well below
11 global standards.

12 “(7) It is estimated that there are 65,000,000
13 illiterate adult Arabs, and two-thirds of them are
14 women.

15 “(8) Educational enrollment for Arab countries
16 rose from 31,000,000 children in 1980 to approxi-
17 mately 56,000,000 children in 1995. Yet despite this
18 increase, 10,000,000 children between the ages of 6
19 and 15 are currently not in school.

20 “(9) In the Middle East, roughly 10,000,000
21 children still do not go to school.

22 “(10) Even though women’s access to education
23 has tripled in Arab countries since 1970, gender dis-
24 parities still persist. Illiteracy in Arab countries af-
25 fects women disproportionately. Women make up

1 two-thirds of illiterate adults, with most living in
2 rural areas.

3 “(11) The publication of books and other read-
4 ing materials in Arab countries faces many major
5 challenges, including the small number of readers
6 due to high rates of illiteracy in some such countries
7 and the weak purchasing power of the Arab reader.
8 The limited readership in Arab countries is reflected
9 in the small number of books published in such
10 countries, which does not exceed 1.1 percent of
11 world production, although Arabs constitute five per-
12 cent of the world population.

13 “(12) The nexus between health and education
14 in Arab countries is very strong. Gains in women’s
15 education accounted for an estimated 43 percent re-
16 duction in child malnutrition between 1970 and
17 1995. Educated mothers are more likely to better
18 space births, to have adequate prenatal care, and to
19 immunize their children.

20 “(13) Many educational systems in Arab and
21 non-Arab Muslim countries widen the gap between
22 rich and poor: while rich students attend excellent
23 private schools, poor children receive grossly inad-
24 equate schooling.

1 “(b) PURPOSE.—The purpose of this section is to
2 strengthen the public educational systems in Arab and
3 predominantly Muslim countries by—

4 “(1) authorizing the establishment of an Inter-
5 national Arab and Muslim Youth Educational Fund
6 through which the United States dedicates re-
7 sources, either through a separate fund or through
8 an international organization, to assist those coun-
9 tries that commit to education reform; and

10 “(2) providing resources for the Fund to help
11 strengthen the public educational systems in those
12 countries.

13 “(c) ESTABLISHMENT OF FUND.—

14 “(1) AUTHORITY.—The President is authorized
15 to establish an International Arab and Muslim
16 Youth Opportunity Fund.

17 “(2) LOCATION.—The Fund may be estab-
18 lished—

19 “(A) as a separate fund in the Treasury;

20 or

21 “(B) through an international organization
22 or international financial institution, such as
23 the United Nations Educational, Science and
24 Cultural Organization, the United Nations De-

1 velopment Program, or the International Bank
2 for Reconstruction and Development.

3 “(3) TRANSFERS AND RECEIPTS.—The head of
4 any department, agency, or instrumentality of the
5 United States Government may transfer any amount
6 to the Fund, and the Fund may receive funds from
7 private enterprises, foreign countries, or other enti-
8 ties.

9 “(4) ACTIVITIES OF THE FUND.—The Fund
10 shall support programs described in this paragraph
11 to improve the education environment in Arab and
12 predominantly Muslim countries.

13 “(A) ASSISTANCE TO ENHANCE MODERN
14 EDUCATIONAL PROGRAMS.—

15 “(i) The establishment in Arab and
16 predominantly Muslim countries of a pro-
17 gram of reform to create a modern edu-
18 cation curriculum in the public educational
19 systems in such countries.

20 “(ii) The establishment or moderniza-
21 tion of educational materials to advance a
22 modern educational curriculum in such
23 systems.

24 “(iii) Teaching English to adults and
25 children.

1 “(iv) The establishment in Arab and
2 predominantly Muslim countries of pro-
3 grams that enhance accountability, trans-
4 parency, and interaction on education pol-
5 icy in such countries between the national
6 government and the regional and local gov-
7 ernments through improved information
8 sharing and monitoring.

9 “(v) The establishment in Arab and
10 predominantly Muslim countries of pro-
11 grams to assist in the formulation of ad-
12 ministration and planning strategies for all
13 levels of government in such countries, in-
14 cluding national, regional, and local gov-
15 ernments.

16 “(vi) The enhancement in Arab and
17 predominantly Muslim countries of com-
18 munity, family, and student participation
19 in the formulation and implementation of
20 education strategies and programs in such
21 countries.

22 “(B) ASSISTANCE FOR TRAINING AND EX-
23 CHANGE PROGRAMS FOR TEACHERS, ADMINIS-
24 TRATORS, AND STUDENTS.—

1 “(i) The establishment of training
2 programs for teachers and educational ad-
3 ministrators to enhance skills, including
4 the establishment of regional centers to
5 train individuals who can transfer such
6 skills upon return to their countries.

7 “(ii) The establishment of exchange
8 programs for teachers and administrators
9 in Arab and predominantly Muslim coun-
10 tries and with other countries to stimulate
11 additional ideas and reform throughout the
12 world, including teacher training exchange
13 programs focused on primary school teach-
14 ers in such countries.

15 “(iii) The establishment of exchange
16 programs for primary and secondary stu-
17 dents in Muslim and Arab countries and
18 with other countries to foster under-
19 standing and tolerance and to stimulate
20 long-standing relationships.

21 “(C) ASSISTANCE TARGETING PRIMARY
22 AND SECONDARY STUDENTS.—

23 “(i) The establishment in Arab and
24 predominantly Muslim countries of after-
25 school programs, civic education programs,

1 and education programs focusing on life
2 skills, such as inter-personal skills and so-
3 cial relations and skills for healthy living,
4 such as nutrition and physical fitness.

5 “(ii) The establishment in Arab and
6 predominantly Muslim countries of pro-
7 grams to improve the proficiency of pri-
8 mary and secondary students in informa-
9 tion technology skills.

10 “(D) ASSISTANCE FOR DEVELOPMENT OF
11 YOUTH PROFESSIONALS.—

12 “(i) The establishment of programs in
13 Arab and predominantly Muslim countries
14 to improve vocational training in trades to
15 help strengthen participation of Muslims
16 and Arabs in the economic development of
17 their countries.

18 “(ii) The establishment of programs
19 in Arab and predominantly Muslim coun-
20 tries that target older Muslim and Arab
21 youths not in school in such areas as en-
22 trepreneurial skills, accounting, micro-fi-
23 nance activities, work training, financial
24 literacy, and information technology.

25 “(E) OTHER TYPES OF ASSISTANCE.—

1 “(i) The translation of foreign books,
2 newspapers, reference guides, and other
3 reading materials into local languages.

4 “(ii) The construction and equipping
5 of modern community and university li-
6 braries.

7 “(5) AUTHORIZATION OF APPROPRIATIONS.—

8 “(A) IN GENERAL.—There is authorized to
9 be appropriated to the President to carry out
10 this section such sums as may be necessary for
11 fiscal years 2008, 2009, and 2010.

12 “(B) AVAILABILITY.—Amounts appro-
13 priated pursuant to the authorization of appro-
14 priations under subsection (a) are authorized to
15 remain available until expended.

16 “(C) ADDITIONAL FUNDS.—Amounts au-
17 thorized to be appropriated under subsection
18 (a) shall be in addition to amounts otherwise
19 available for such purposes.

20 “(6) REPORT TO CONGRESS.—Not later than
21 180 days after the date of the enactment of this sec-
22 tion and annually thereafter, the President shall
23 submit to the appropriate congressional committees
24 a report on United States efforts to assist in the im-
25 provement of educational opportunities for Arab and

1 predominantly Muslim children and youths, includ-
2 ing the progress made toward establishing the Inter-
3 national Arab and Muslim Youth Opportunity Fund.

4 “(7) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES DEFINED.—In this subsection, the term ‘ap-
6 propriate congressional committees’ means the Com-
7 mittee on Foreign Affairs and the Committee on Ap-
8 propriations of the House of Representatives and the
9 Committee on Foreign Relations and the Committee
10 on Appropriations of the Senate.”.

11 **SEC. 1413. ANNUAL REPORT TO CONGRESS.**

12 (a) IN GENERAL.—Not later than June 1 of each
13 year, the Secretary of State shall submit to the appro-
14 priate congressional committees a report on the efforts of
15 Arab and predominantly Muslim countries to increase the
16 availability of modern basic education and to close edu-
17 cational institutions that promote religious extremism and
18 terrorism.

19 (b) CONTENTS.—Each report shall include—

20 (1) a list of Arab and predominantly Muslim
21 countries that are making serious and sustained ef-
22 forts to improve the availability of modern basic edu-
23 cation and to close educational institutions that pro-
24 mote religious extremism and terrorism;

1 (2) a list of such countries that are making ef-
2 forts to improve the availability of modern basic edu-
3 cation and to close educational institutions that pro-
4 mote religious extremism and terrorism, but such ef-
5 forts are not serious and sustained;

6 (3) a list of such countries that are not making
7 efforts to improve the availability of modern basic
8 education and to close educational institutions that
9 promote religious extremism and terrorism; and

10 (4) an assessment for each country specified in
11 each of paragraphs (1), (2), and (3) of the role of
12 United States assistance with respect to the efforts
13 made or not made to improve the availability of
14 modern basic education and close educational insti-
15 tutions that promote religious extremism and ter-
16 rorism.

17 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
18 FINED.—In this section, the term “appropriate congres-
19 sional committees” means the Committee on Foreign Af-
20 fairs and the Committee on Appropriations of the House
21 of Representatives and the Committee on Foreign Rela-
22 tions and the Committee on Appropriations of the Senate.

1 **SEC. 1414. EXTENSION OF PROGRAM TO PROVIDE GRANTS**
2 **TO AMERICAN-SPONSORED SCHOOLS IN**
3 **ARAB AND PREDOMINANTLY MUSLIM COUN-**
4 **TRIES TO PROVIDE SCHOLARSHIPS.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Section 7113 of the Intelligence Reform and
7 Terrorism Prevention Act of 2004 (Pub. Law 108–
8 458) authorized the establishment of a pilot pro-
9 gram to provide grants to American-sponsored
10 schools in Arab and predominantly Muslim countries
11 so that such schools could provide scholarships to
12 young people from lower-income and middle-income
13 families in such countries to attend such schools,
14 where they could improve their English and be ex-
15 posed to a modern education.

16 (2) Since the date of the enactment of that sec-
17 tion, the Middle East Partnership Initiative has pur-
18 sued implementation of that program.

19 (b) EXTENSION OF PROGRAM.—

20 (1) IN GENERAL.—Section 7113 of the Intel-
21 ligence Reform and Terrorism Prevention Act of
22 2004 is amended—

23 (A) in the section heading—

24 (i) by striking “**PILOT**”; and

25 (ii) by inserting “**ARAB AND**” before

26 “**PREDOMINANTLY MUSLIM**”;

1 (B) in subsection (a)(2), by inserting
2 “Arab and” before “predominantly Muslim”;

3 (C) in subsection (b), in the matter pre-
4 ceding paragraph (1), by inserting “Arab and”
5 before “predominantly Muslim”;

6 (D) in subsection (c)—

7 (i) in the subsection heading, by strik-
8 ing “PILOT”;

9 (ii) by striking “pilot”; and

10 (iii) by striking “countries with pre-
11 dominantly Muslim populations” and in-
12 serting “Arab and predominantly Muslim
13 countries”;

14 (E) in subsection (d), by striking “pilot”
15 each place it appears;

16 (F) in subsection (f)—

17 (i) by striking “pilot”; and

18 (ii) by inserting “an Arab or” before
19 “a predominantly Muslim country”;

20 (G) in subsection (g), in the first sen-
21 tence—

22 (i) by inserting “and April 15, 2008,”
23 after “April 15, 2006,”; and

24 (ii) by striking “pilot”; and

25 (H) in subsection (h)—

1 (i) by striking “2005 and 2006” in-
2 sserting “2007 and 2008” ; and

3 (ii) by striking “pilot”.

4 (2) CONFORMING AMENDMENT.—Section 1(b)
5 of such Act is amended, in the table of contents, by
6 striking the item relating to section 7113 and insert-
7 ing after section 7112 the following new item:

“7113. Program to provide grants to American-sponsored schools in Arab and
predominantly Muslim countries to provide scholarships.”.

8 **Subtitle B—Democracy and Devel-**
9 **opment in Arab and Predomi-**
10 **nantly Muslim Countries**

11 **SEC. 1421. PROMOTING DEMOCRACY AND DEVELOPMENT**
12 **IN THE MIDDLE EAST, CENTRAL ASIA, SOUTH**
13 **ASIA, AND SOUTHEAST ASIA.**

14 (a) FINDINGS.—Congress finds the following:

15 (1) Al-Qaeda and affiliated groups have estab-
16 lished a terrorist network with linkages throughout
17 the Middle East, Central Asia, South Asia, and
18 Southeast Asia.

19 (2) While political repression and lack of eco-
20 nomic development do not justify terrorism, in-
21 creased political freedoms, poverty reduction, and
22 broad-based economic growth can contribute to an
23 environment that undercuts tendencies and condi-

1 tions that facilitate the rise of terrorist organiza-
2 tions.

3 (3) It is in the national security interests of the
4 United States to promote democracy, the rule of law,
5 good governance, sustainable development, a vig-
6 orous civil society, political freedom, protection of
7 minorities, independent media, women's rights, pri-
8 vate sector growth, and open economic systems in
9 the countries of the Middle East, Central Asia,
10 South Asia, and Southeast Asia.

11 (b) POLICY.—It is the policy of the United States
12 to—

13 (1) promote over the long-term, seizing oppor-
14 tunities whenever possible in the short term, democ-
15 racy, the rule of law, good governance, sustainable
16 development, a vigorous civil society, political free-
17 dom, protection of minorities, independent media,
18 women's rights, private sector growth, and open eco-
19 nomic systems in the countries of the Middle East,
20 Central Asia, South Asia, and Southeast Asia;

21 (2) provide assistance and resources to individ-
22 uals and organizations in the countries of the Middle
23 East, Central Asia, South Asia, and Southeast Asia
24 that are committed to promoting such objectives and

1 to design strategies in conjunction with such individ-
2 uals and organizations; and

3 (3) work with other countries and international
4 organizations to increase the resources devoted to
5 promoting such objectives.

6 (c) STRATEGY.—Not later than 180 days after the
7 date of the enactment of this Act, the Secretary of State
8 shall submit to appropriate congressional committees a re-
9 port with a country-by-country five year strategy to pro-
10 mote the policy of the United States described in sub-
11 section (b). Such report shall contain an estimate of the
12 funds necessary to implement such a strategy.

13 (d) APPROPRIATE CONGRESSIONAL COMMITTEES
14 DEFINED.—In this section, the term “appropriate con-
15 gressional committees” means the Committee on Foreign
16 Affairs and the Committee on Appropriations of the
17 House of Representatives and the Committee on Foreign
18 Relations and the Committee on Appropriations of the
19 Senate.

20 **SEC. 1422. MIDDLE EAST FOUNDATION.**

21 (a) PURPOSES.—The purposes of this section are to
22 support, through the provision of grants, technical assist-
23 ance, training, and other programs, in the countries of the
24 Middle East, the expansion of—

25 (1) civil society;

1 (2) opportunities for political participation for
2 all citizens;

3 (3) protections for internationally recognized
4 human rights, including the rights of women;

5 (4) educational system reforms;

6 (5) independent media;

7 (6) policies that promote economic opportunities
8 for citizens;

9 (7) the rule of law; and

10 (8) democratic processes of government.

11 (b) MIDDLE EAST FOUNDATION.—

12 (1) DESIGNATION.—The Secretary of State is
13 authorized to designate an appropriate private, non-
14 profit organization that is organized or incorporated
15 under the laws of the United States or of a State
16 as the Middle East Foundation (referred to in this
17 section as the “Foundation”).

18 (2) FUNDING.—

19 (A) AUTHORITY.—The Secretary of State
20 is authorized to provide funding to the Founda-
21 tion through the Middle East Partnership Ini-
22 tiative of the Department of State. The Foun-
23 dation shall use amounts provided under this
24 paragraph to carry out the purposes specified in
25 subsection (a), including through making grants

1 and providing other assistance to entities to
2 carry out programs for such purposes.

3 (B) FUNDING FROM OTHER SOURCES.—In
4 determining the amount of funding to provide
5 to the Foundation, the Secretary of State shall
6 take into consideration the amount of funds
7 that the Foundation has received from sources
8 other than the United States Government.

9 (3) NOTIFICATION TO CONGRESSIONAL COMMIT-
10 TEES.—The Secretary of State shall notify the Com-
11 mittee on Foreign Affairs and the Committee on Ap-
12 propriations of the House of Representatives and the
13 Committee on Foreign Relations and the Committee
14 on Appropriations of the Senate prior to designating
15 an appropriate organization as the Foundation.

16 (c) GRANTS FOR PROJECTS.—

17 (1) FOUNDATION TO MAKE GRANTS.—The Sec-
18 retary of State shall enter into an agreement with
19 the Foundation that requires the Foundation to use
20 the funds provided under subsection (b)(2) to make
21 grants to persons or entities (other than govern-
22 ments or government entities) located in the Middle
23 East or working with local partners based in the
24 Middle East to carry out projects that support the
25 purposes specified in subsection (a).

1 (2) CENTER FOR PUBLIC POLICY.—Under the
2 agreement described in paragraph (1), the Founda-
3 tion may make a grant to an institution of higher
4 education located in the Middle East to create a cen-
5 ter for public policy for the purpose of permitting
6 scholars and professionals from the countries of the
7 Middle East and from other countries, including the
8 United States, to carry out research, training pro-
9 grams, and other activities to inform public policy-
10 making in the Middle East and to promote broad
11 economic, social, and political reform for the people
12 of the Middle East.

13 (3) APPLICATIONS FOR GRANTS.—An entity
14 seeking a grant from the Foundation under this sec-
15 tion shall submit an application to the head of the
16 Foundation at such time, in such manner, and con-
17 taining such information as the head of the Founda-
18 tion may reasonably require.

19 (d) PRIVATE CHARACTER OF THE FOUNDATION.—
20 Nothing in this section shall be construed to—

21 (1) make the Foundation an agency or estab-
22 lishment of the United States Government, or to
23 make the officers or employees of the Foundation of-
24 ficers or employees of the United States for purposes
25 of title 5, United States Code; or

1 (2) to impose any restriction on the Founda-
2 tion's acceptance of funds from private and public
3 sources in support of its activities consistent with
4 the purposes specified in subsection (a).

5 (e) LIMITATION ON PAYMENTS TO FOUNDATION
6 PERSONNEL.—No part of the funds provided to the Foun-
7 dation under this section shall inure to the benefit of any
8 officer or employee of the Foundation, except as salary
9 or reasonable compensation for services.

10 (f) RETENTION OF INTEREST.—The Foundation may
11 hold funds provided under this section in interest-bearing
12 accounts prior to the disbursement of such funds to carry
13 out the purposes specified in subsection (a), and, only to
14 the extent and in the amounts provided for in advance
15 in appropriations Acts, may retain for use for such pur-
16 poses any interest earned without returning such interest
17 to the Treasury of the United States.

18 (g) FINANCIAL ACCOUNTABILITY.—

19 (1) INDEPENDENT PRIVATE AUDITS OF THE
20 FOUNDATION.—The accounts of the Foundation
21 shall be audited annually in accordance with gen-
22 erally accepted auditing standards by independent
23 certified public accountants or independent licensed
24 public accountants certified or licensed by a regu-
25 latory authority of a State or other political subdivi-

1 sion of the United States. The report of the inde-
2 pendent audit shall be included in the annual report
3 required by subsection (h).

4 (2) GAO AUDITS.—The financial transactions
5 undertaken pursuant to this section by the Founda-
6 tion may be audited by the Government Account-
7 ability Office in accordance with such principles and
8 procedures and under such rules and regulations as
9 may be prescribed by the Comptroller General of the
10 United States.

11 (3) AUDITS OF GRANT RECIPIENTS- .—

12 (A) IN GENERAL.—A recipient of a grant
13 from the Foundation shall agree to permit an
14 audit of the books and records of such recipient
15 related to the use of the grant funds.

16 (B) RECORDKEEPING.—Such recipient
17 shall maintain appropriate books and records to
18 facilitate an audit referred to in subparagraph
19 (A), including—

20 (i) separate accounts with respect to
21 the grant funds;

22 (ii) records that fully disclose the use
23 of the grant funds;

1 (iii) records describing the total cost
2 of any project carried out using grant
3 funds; and

4 (iv) the amount and nature of any
5 funds received from other sources that
6 were combined with the grant funds to
7 carry out a project.

8 (h) ANNUAL REPORTS.—Not later than January 31,
9 2008, and annually thereafter, the Foundation shall sub-
10 mit to the appropriate congressional committees and make
11 available to the public a report that includes, for the fiscal
12 year prior to the fiscal year in which the report is sub-
13 mitted, a comprehensive and detailed description of—

14 (1) the operations and activities of the Founda-
15 tion that were carried out using funds provided
16 under this section;

17 (2) grants made by the Foundation to other en-
18 tities with funds provided under this section;

19 (3) other activities of the Foundation to further
20 the purposes specified in subsection (a); and

21 (4) the financial condition of the Foundation.

22 (i) DEFINITIONS.—In this section:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means the Committee on Foreign Affairs

1 and the Committee on Appropriations of the House
2 of Representatives and the Committee on Foreign
3 Relations and the Committee on Appropriations of
4 the Senate.

5 (2) MIDDLE EAST.—The term “Middle East”
6 means Algeria, Bahrain, Egypt, Iran, Iraq, Jordan,
7 Kuwait, Lebanon, Libya, Morocco, Oman, Qatar,
8 Saudi Arabia, Syria, Tunisia, United Arab Emirates,
9 West Bank and Gaza, and Yemen.

10 (j) EXPIRATION OF AUTHORITY.—The authority pro-
11 vided under this section shall expire on September 30,
12 2017.

13 (k) REPEAL.—Section 534(k) of Public Law 109–
14 102 is repealed.

15 **Subtitle C—Restoring United**
16 **States Moral Leadership**

17 **SEC. 1431. ADVANCING UNITED STATES INTERESTS**
18 **THROUGH PUBLIC DIPLOMACY.**

19 (a) FINDING.—Congress finds that the report of the
20 National Commission on Terrorist Attacks Upon the
21 United States stated that, “Recognizing that Arab and
22 Muslim audiences rely on satellite television and radio, the
23 government has begun some promising initiatives in tele-
24 vision and radio broadcasting to the Arab world, Iran, and
25 Afghanistan. These efforts are beginning to reach large

1 audiences. The Broadcasting Board of Governors has
2 asked for much larger resources. It should get them.”.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) The United States needs to improve its
6 communication of information and ideas to people in
7 foreign countries, particularly in countries with sig-
8 nificant Muslim populations.

9 (2) Public diplomacy should reaffirm the para-
10 mount commitment of the United States to demo-
11 cratic principles, including preserving the civil lib-
12 erties of all the people of the United States, includ-
13 ing Muslim-Americans.

14 (3) A significant expansion of United States
15 international broadcasting would provide a cost-ef-
16 fective means of improving communication with
17 countries with significant Muslim populations by
18 providing news, information, and analysis, as well as
19 cultural programming, through both radio and tele-
20 vision broadcasts.

21 (c) SPECIAL AUTHORITY FOR SURGE CAPACITY.—
22 The United States International Broadcasting Act of 1994
23 (22 U.S.C. 6201 et seq.) is amended by adding at the end
24 the following new section:

1 **“SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.**

2 “(a) EMERGENCY AUTHORITY.—

3 “(1) IN GENERAL.—Whenever the President de-
4 termines it to be important to the national interests
5 of the United States and so certifies to the appro-
6 priate congressional committees, the President, on
7 such terms and conditions as the President may de-
8 termine, is authorized to direct any department,
9 agency, or other governmental entity of the United
10 States to furnish the Broadcasting Board of Gov-
11 ernors with the assistance of such department, agen-
12 cy, or entity based outside the United States as may
13 be necessary to provide international broadcasting
14 activities of the United States with a surge capacity
15 to support United States foreign policy objectives
16 during a crisis abroad.

17 “(2) SUPERSEDES EXISTING LAW.—The au-
18 thority of paragraph (1) shall supersede any other
19 provision of law.

20 “(3) SURGE CAPACITY DEFINED.—In this sub-
21 section, the term ‘surge capacity’ means the finan-
22 cial and technical resources necessary to carry out
23 broadcasting activities in a geographical area during
24 a crisis abroad.

25 “(b) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated to the President such sums as may be
3 necessary for the President to carry out this section,
4 except that no such amount may be appropriated
5 which, when added to amounts previously appro-
6 priated for such purpose but not yet obligated,
7 would cause such amounts to exceed \$25,000,000.

8 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
9 propriated pursuant to the authorization of appro-
10 priations in this subsection are authorized to remain
11 available until expended.

12 “(3) DESIGNATION OF APPROPRIATIONS.—
13 Amounts appropriated pursuant to the authorization
14 of appropriations in this subsection may be referred
15 to as the ‘United States International Broadcasting
16 Surge Capacity Fund’.

17 “(c) REPORT.—The annual report submitted to the
18 President and Congress by the Broadcasting Board of
19 Governors under section 305(a)(9) shall provide a detailed
20 description of any activities carried out under this section.

21 “(d) AUTHORIZATION OF APPROPRIATIONS FOR
22 UNITED STATES INTERNATIONAL BROADCASTING ACTIVI-
23 TIES.—

24 “(1) IN GENERAL.—In addition to amounts
25 otherwise available for such purposes, there are au-

1 thorized to be appropriated such sums as may be
2 necessary to carry out United States Government
3 broadcasting activities under this Act, including
4 broadcasting capital improvements, the United
5 States Information and Educational Exchange Act
6 of 1948 (22 U.S.C. 1431 et seq.), and the Foreign
7 Affairs Reform and Restructuring Act of 1998 (as
8 enacted in division G of the Omnibus Consolidated
9 and Emergency Supplemental Appropriations Act,
10 1999; Public Law 105–277), and to carry out other
11 authorities in law consistent with such purposes.

12 “(2) AVAILABILITY OF FUNDS.—Amounts ap-
13 propriated pursuant to the authorization of appro-
14 priations in this section are authorized to remain
15 available until expended.”.

16 **SEC. 1432. EXPANSION OF UNITED STATES SCHOLARSHIP,**
17 **EXCHANGE, AND LIBRARY PROGRAMS IN**
18 **ARAB AND PREDOMINANTLY MUSLIM COUN-**
19 **TRIES.**

20 (a) REPORT; CERTIFICATION.—Not later than 30
21 days after the date of the enactment of this Act and every
22 180 days thereafter, the Secretary of State shall submit
23 to the appropriate congressional committees a report on
24 the recommendations of the National Commission on Ter-
25 rorist Attacks Upon the United States and the policy goals

1 described in section 7112 of the Intelligence Reform and
2 Terrorism Prevention Act of 2004 (Public Law 108–458)
3 for expanding United States scholarship, exchange, and
4 library programs in Arab and predominantly Muslim coun-
5 tries. Such report shall include—

6 (1) a certification by the Secretary of State
7 that such recommendations have been implemented
8 and such policy goals have been achieved; or

9 (2) if the Secretary of State is unable to make
10 the certification described in paragraph (1), a de-
11 scription of—

12 (A) the steps taken to implement such rec-
13 ommendations and achieve such policy goals;

14 (B) when the Secretary of State expects
15 such recommendations to be implemented and
16 such policy goals to be achieved; and

17 (C) any allocation of resources or other ac-
18 tions by Congress the Secretary of State con-
19 siders necessary to implement such rec-
20 ommendations and achieve such policy goals.

21 (b) TERMINATION OF DUTY TO REPORT.—The duty
22 to submit a report under subsection (a) shall terminate
23 when the Secretary of State submits a certification pursu-
24 ant to paragraph (1) of such subsection.

1 (c) GAO REVIEW OF CERTIFICATION.—If the Sec-
2 retary of State submits a certification pursuant to sub-
3 section (a)(1), not later than 30 days after the submission
4 of such certification, the Comptroller General of the
5 United States shall submit to the appropriate congres-
6 sional committees a report on whether the recommenda-
7 tions referred to in subsection (a) have been implemented
8 and whether the policy goals described in section 7112 of
9 the Intelligence Reform and Terrorism Prevention Act of
10 2004 have been achieved.

11 (d) DEFINITION.—In this section, the term “appro-
12 priate congressional committees” means—

13 (1) the Committee on Foreign Affairs and the
14 Committee on Oversight and Government Reform of
15 the House of Representatives; and

16 (2) the Committee on Foreign Relations and
17 the Committee on Homeland Security and Govern-
18 mental Affairs of the Senate.

19 **SEC. 1433. UNITED STATES POLICY TOWARD DETAINEES.**

20 (a) FINDINGS.—Congress finds the following:

21 (1) The National Commission on Terrorist At-
22 tacks Upon the United States (commonly referred to
23 as the “9/11 Commission”) declared that the United
24 States “should work with friends to develop mutu-
25 ally agreed-on principles for the detention and hu-

1 mane treatment of captured international terrorists
2 who are not being held under a particular country's
3 criminal laws" and recommended that the United
4 States engage our allies "to develop a common coal-
5 ition approach toward the detention and humane
6 treatment of captured terrorists", drawing from
7 Common Article 3 of the Geneva Conventions.

8 (2) Congress has passed several provisions of
9 law that have changed United States standards re-
10 relating to United States detainees, but such provi-
11 sions have not been part of a common coalition ap-
12 proach in this regard.

13 (3) A number of investigations remain ongoing
14 by countries who are close United States allies in the
15 war on terrorism regarding the conduct of officials,
16 employees, and agents of the United States and of
17 other countries related to conduct regarding detain-
18 ees.

19 (b) REPORT; CERTIFICATION.—Not later than 90
20 days after the date of the enactment of this Act and every
21 180 days thereafter, the Secretary of State, in consulta-
22 tion with the Attorney General and the Secretary of De-
23 fense, shall submit to the relevant congressional commit-
24 tees a report on any progress towards implementing the
25 recommendations of the 9/11 Commission for engaging

1 United States allies to develop a common coalition ap-
2 proach, in compliance with Common Article 3 of the Gene-
3 va Conventions, toward the detention and humane treat-
4 ment of individuals detained during Operation Iraqi Free-
5 dom, Operation Enduring Freedom, or in connection with
6 United States counterterrorist operations. Such report
7 shall include—

8 (1) a certification by the Secretary of State
9 that such recommendations have been implemented
10 and such policy goals have been achieved; or

11 (2) if the Secretary of State is unable to make
12 the certification described in paragraph (1), a de-
13 scription of—

14 (A) the steps taken to implement such rec-
15 ommendations and achieve such policy goals;

16 (B) when the Secretary of State expects
17 such recommendations to be implemented and
18 such policy goals to be achieved; and

19 (C) any allocation of resources or other ac-
20 tions by Congress that the Secretary of State
21 considers necessary to implement such rec-
22 ommendations and achieve such policy goals.

23 (c) TERMINATION OF DUTY TO REPORT.—The duty
24 to submit a report under subsection (a) shall terminate

1 when the Secretary of State submits a certification pursu-
2 ant to subsection (a)(1).

3 (d) GAO REVIEW OF CERTIFICATION.—If the Sec-
4 retary of State submits a certification pursuant to sub-
5 section (a)(1), not later than 30 days after the submission
6 of such certification, the Comptroller General shall submit
7 to the relevant congressional committees a report on
8 whether the recommendations described in subsection (a)
9 have been implemented and whether the policy goals de-
10 scribed in such subsection have been achieved.

11 (e) DEFINITION.—In this section, the term “relevant
12 congressional committees” means—

13 (1) with respect to the House of Representa-
14 tives, the Committee on Foreign Affairs, the Com-
15 mittee on Armed Services, the Committee on Over-
16 sight and Government Reform, the Committee on
17 the Judiciary, and the Permanent Select Committee
18 on Intelligence; and

19 (2) with respect to the Senate, the Committee
20 on Foreign Relations, the Committee on Armed
21 Services, the Committee on Homeland Security and
22 Governmental Affairs, the Committee on the Judici-
23 ary, and the Select Committee on Intelligence.

1 **Subtitle D—Strategy for the United**
2 **States Relationship With Af-**
3 **ghanistan, Pakistan, and Saudi**
4 **Arabia**

5 **SEC. 1441. AFGHANISTAN.**

6 (a) STATEMENTS OF POLICY.—The following shall be
7 the policies of the United States:

8 (1) The United States shall vigorously support
9 the Government of Afghanistan as it continues on
10 its path toward a broad-based, pluralistic, multi-eth-
11 nic, gender-sensitive, and fully representative govern-
12 ment in Afghanistan and shall maintain its long-
13 term commitment to the people of Afghanistan by
14 increased assistance and the continued deployment
15 of United States troops in Afghanistan as long as
16 the Government of Afghanistan supports such
17 United States involvement.

18 (2) In order to reduce the ability of the Taliban
19 and Al-Qaeda to finance their operations through
20 the opium trade, the President shall engage aggres-
21 sively with the Government of Afghanistan and our
22 NATO partners, and in consultation with Congress,
23 to assess the success of the Afghan counternarcotics
24 strategy in existence as of December 2006 and to
25 explore all additional options for addressing the nar-

1 cotics crisis in Afghanistan, including possible
2 changes in rules of engagement for NATO and Coa-
3 lition forces for participation in actions against nar-
4 cotics trafficking and kingpins.

5 (b) STATEMENT OF CONGRESS.—Congress strongly
6 urges that the Afghanistan Freedom Support Act of 2002
7 be reauthorized and updated to take into account new de-
8 velopments in Afghanistan and in the region so as to dem-
9 onstrate the continued support by the United States for
10 the people and Government of Afghanistan.

11 (c) EMERGENCY INCREASE IN POLICING OPER-
12 ATIONS.—

13 (1) IN GENERAL.—The President shall make
14 every effort, on an emergency basis, to dramatically
15 increase the numbers of United States and inter-
16 national police trainers, mentors, and police per-
17 sonnel operating in conjunction with Afghanistan
18 civil security forces and shall increase efforts to as-
19 sist the Government of Afghanistan in addressing
20 the corruption crisis that is threatening to under-
21 mine Afghanistan's future.

22 (2) REPORT.—Not later than 180 days after
23 the date of the enactment of this Act and every six
24 months thereafter until September 31, 2010, the
25 President shall submit to the Committee on Foreign

1 Affairs and the Committee on Appropriations of the
2 House of Representatives and the Committee on
3 Foreign Relations and the Committee on Appropria-
4 tions of the Senate a report on United States efforts
5 to fulfill the requirements of this subsection.

6 (d) EMERGENCY ENERGY ASSISTANCE.—

7 (1) FINDING.—Congress finds that short-term
8 shortages of energy may destabilize the Government
9 of Afghanistan and undermine the ability of Presi-
10 dent Karzai to carry out critically needed reforms.

11 (2) AUTHORIZATION OF ASSISTANCE.—The
12 President is authorized to provide assistance for the
13 acquisition of emergency energy resources, including
14 diesel fuel, to secure the delivery of electricity to
15 Kabul, Afghanistan, and other major Afghan prov-
16 inces and cities.

17 (3) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated to the
19 President to carry out paragraph (2) such sums as
20 may be necessary for each of fiscal years 2008 and
21 2009.

22 **SEC. 1442. PAKISTAN.**

23 (a) FINDINGS.—Congress finds the following:

24 (1) Since September 11, 2001, the Government
25 of Pakistan has been an important partner in help-

1 ing the United States remove the Taliban regime in
2 Afghanistan and combating international terrorism
3 in the frontier provinces of Pakistan.

4 (2) There remain a number of critical issues
5 that threaten to disrupt the relationship between the
6 United States and Pakistan, undermine inter-
7 national security, and destabilize Pakistan, includ-
8 ing—

9 (A) curbing the proliferation of nuclear
10 weapons technology;

11 (B) combating poverty and corruption;

12 (C) building effective government institu-
13 tions, especially secular public schools;

14 (D) promoting democracy and the rule of
15 law, particularly at the national level;

16 (E) addressing the continued presence of
17 Taliban and other violent extremist forces
18 throughout the country;

19 (F) maintaining the authority of the Gov-
20 ernment of Pakistan in all parts of its national
21 territory;

22 (G) securing the borders of Pakistan to
23 prevent the movement of militants and terror-
24 ists into other countries and territories; and

1 (H) effectively dealing with Islamic extre-
2 mism.

3 (b) STATEMENTS OF POLICY.—The following shall be
4 the policies of the United States:

5 (1) To work with the Government of Pakistan
6 to combat international terrorism, especially in the
7 frontier provinces of Pakistan, and to end the use of
8 Pakistan as a safe haven for forces associated with
9 the Taliban.

10 (2) To establish a long-term strategic partner-
11 ship with the Government of Pakistan to address the
12 issues described in subparagraphs (A) through (H)
13 of subsection (a)(2).

14 (3) To dramatically increase funding for pro-
15 grams of the United States Agency for International
16 Development and the Department of State that as-
17 sist the Government of Pakistan in addressing such
18 issues, if the Government of Pakistan demonstrates
19 a commitment to building a moderate, democratic
20 state, including significant steps towards free and
21 fair parliamentary elections in 2007.

22 (4) To work with the international community
23 to secure additional financial and political support to
24 effectively implement the policies set forth in this
25 subsection and help to resolve the dispute between

1 the Government of Pakistan and the Government of
2 India over the disputed territory of Kashmir.

3 (c) STRATEGY RELATING TO PAKISTAN.—

4 (1) REQUIREMENT FOR REPORT ON STRAT-
5 EGY.—Not later than 90 days after the date of the
6 enactment of this Act, the President shall submit to
7 the appropriate congressional committees a report,
8 in classified form if necessary, that describes the
9 long-term strategy of the United States to engage
10 with the Government of Pakistan to address the
11 issues described in subparagraphs (A) through (F)
12 of subsection (a)(2) and carry out the policies de-
13 scribed in subsection (b) in order accomplish the
14 goal of building a moderate, democratic Pakistan.

15 (2) APPROPRIATE CONGRESSIONAL COMMIT-
16 TEES DEFINED.—In this subsection the term “ap-
17 propriate congressional committees” means the
18 Committee on Foreign Affairs and the Committee on
19 Appropriations of the House of Representatives and
20 the Committee on Foreign Relations and the Com-
21 mittee on Appropriations of the Senate.

22 (d) LIMITATION ON UNITED STATES SECURITY AS-
23 SISTANCE TO PAKISTAN.—

24 (1) LIMITATION.—

1 (A) IN GENERAL.—For fiscal years 2008
2 and 2009, United States assistance under chap-
3 ter 2 of part II of the Foreign Assistance Act
4 of 1961 (22 U.S.C. 2311 et seq.) or section 23
5 of the Arms Export Control Act (22 U.S.C.
6 2763) may not be provided to, and a license for
7 any item controlled under the Arms Export
8 Control Act (22 U.S.C. 2751 et seq.) may not
9 be approved for, Pakistan until 15 days after
10 the date on which President determines and
11 certifies to the appropriate congressional com-
12 mittees that the Government of Pakistan is
13 making all possible efforts to prevent the
14 Taliban from operating in areas under its sov-
15 ereign control, including in the cities of Quetta
16 and Chaman and in the Northwest Frontier
17 Province and the Federally Administered Tribal
18 Areas.

19 (B) FORM.—The certification required by
20 subparagraph (A) shall be transmitted in un-
21 classified form, but may contain a classified
22 annex.

23 (2) WAIVER.—The President may waive the
24 limitation on assistance under paragraph (1) for a
25 fiscal year if the President determines and certifies

1 to the appropriate congressional committees that it
2 is important to the national security interest of the
3 United States to do so.

4 (3) SUNSET.—The limitation on assistance
5 under paragraph (1) shall cease to be effective be-
6 ginning on the date on which the President deter-
7 mines and certifies to the appropriate congressional
8 committees that the Taliban, or any related suc-
9 cessor organization, has ceased to exist as an organi-
10 zation capable of conducting military, insurgent, or
11 terrorist activities in Afghanistan from Pakistan.

12 (4) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES DEFINED.—In this subsection, the term “ap-
14 propriate congressional committees” means the
15 Committee on Foreign Affairs and the Committee on
16 Appropriations of the House of Representatives and
17 the Committee on Foreign Relations and the Com-
18 mittee on Appropriations of the Senate.

19 (e) NUCLEAR PROLIFERATION.—

20 (1) FINDING.—Congress finds that Pakistan’s
21 maintenance of a network for the proliferation of
22 nuclear and missile technologies would be incon-
23 sistent with Pakistan being considered an ally of the
24 United States.

1 (2) SENSE OF CONGRESS.—It is the sense of
2 Congress that the national security interest of the
3 United States will best be served if the United
4 States develops and implements a long-term strategy
5 to improve the United States relationship with Paki-
6 stan and works with the Government of Pakistan to
7 stop nuclear proliferation.

8 (f) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There are authorized to be
10 appropriated to the President for providing assist-
11 ance for Pakistan for fiscal year 2008—

12 (A) for “Development Assistance”, such
13 sums as may be necessary to carry out the pro-
14 visions of sections 103, 105, and 106 of the
15 Foreign Assistance Act of 1961 (22 U.S.C.
16 2151a, 2151c, and 2151d,);

17 (B) for the “Child Survival and Health
18 Programs Fund”, such sums as may be nec-
19 essary to carry out the provisions of sections
20 104 of the Foreign Assistance Act of 1961 (22
21 U.S.C. 2151b);

22 (C) for the “Economic Support Fund”,
23 such sums as may be necessary to carry out the
24 provisions of chapter 4 of part II of the Foreign

1 Assistance Act of 1961 (22 U.S.C. 2346 et
2 seq.);

3 (D) for “International Narcotics Control
4 and Law Enforcement”, such sums as may be
5 necessary to carry out the provisions of chapter
6 8 of part I of the Foreign Assistance Act of
7 1961 (22 U.S.C. 2291 et seq.);

8 (E) for “Nonproliferation, Anti-Terrorism,
9 Demining and Related Programs”, such sums
10 as may be necessary;

11 (F) for “International Military Education
12 and Training”, such sums as may be necessary
13 to carry out the provisions of chapter 5 of part
14 II of the Foreign Assistance Act of 1961 (22
15 U.S.C. 2347 et seq.); and

16 (G) for “Foreign Military Financing Pro-
17 gram”, such sums as may be necessary to carry
18 out the provisions of section 23 of the Arms
19 Export Control Act (22 U.S.C. 2763).

20 (2) OTHER FUNDS.—Amounts authorized to be
21 appropriated under this subsection are in addition to
22 amounts otherwise available for such purposes.

23 (g) EXTENSION OF WAIVERS.—

24 (1) AMENDMENTS.—The Act entitled “An Act
25 to authorize the President to exercise waivers of for-

1 eign assistance restrictions with respect to Pakistan
2 through September 30, 2003, and for other pur-
3 poses”, approved October 27, 2001 (Public Law
4 107–57; 115 Stat. 403), is amended—

5 (A) in section 1(b)—

6 (i) in the heading, to read as follows:

7 “(b) FISCAL YEARS 2007 AND 2008.—”; and

8 (ii) in paragraph (1), by striking “any
9 provision” and all that follows through
10 “that prohibits” and inserting “any provi-
11 sion of the foreign operations, export fi-
12 nancing, and related programs appropria-
13 tions Act for fiscal year 2007 or 2008 (or
14 any other appropriations Act) that pro-
15 hibits”;

16 (B) in section 3(2), by striking “Such pro-
17 vision” and all that follows through “as are”
18 and inserting “Such provision of the annual
19 foreign operations, export financing, and related
20 programs appropriations Act for fiscal years
21 2002 through 2008 (or any other appropria-
22 tions Act) as are”; and

23 (C) in section 6, by striking “the provi-
24 sions” and all that follows and inserting “the

1 provisions of this Act shall terminate on Octo-
2 ber 1, 2008.”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by paragraph (1) take effect on October 1, 2006.

5 (3) SENSE OF CONGRESS.—It is the sense of
6 Congress that determinations to provide extensions
7 of waivers of foreign assistance prohibitions with re-
8 spect to Pakistan pursuant to Public Law 107–57
9 for fiscal years after the fiscal years specified in the
10 amendments made by paragraph (1) to Public Law
11 107–57 should be informed by the pace of demo-
12 cratic reform, extension of the rule of law, and the
13 conduct of the parliamentary elections currently
14 scheduled for 2007 in Pakistan.

15 **SEC. 1443. SAUDI ARABIA.**

16 (a) FINDINGS.—Congress finds the following:

17 (1) The Kingdom of Saudi Arabia has an un-
18 even record in the fight against terrorism, especially
19 with respect to terrorist financing, support for rad-
20 ical madrassas, and a lack of political outlets for its
21 citizens, that poses a threat to the security of the
22 United States, the international community, and the
23 Kingdom of Saudi Arabia itself.

24 (2) The United States has a national security
25 interest in working with the Government of Saudi

1 Arabia to combat international terrorists who oper-
2 ate within Saudi Arabia or who operate outside
3 Saudi Arabia with the support of citizens of Saudi
4 Arabia.

5 (b) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that, in order to more effectively combat terrorism,
7 the Government of Saudi Arabia must undertake and con-
8 tinue a number of political and economic reforms, includ-
9 ing increasing anti-terrorism operations conducted by law
10 enforcement agencies, providing more political rights to its
11 citizens, increasing the rights of women, engaging in com-
12 prehensive educational reform, enhancing monitoring of
13 charitable organizations, promulgating and enforcing do-
14 mestic laws, and regulation on terrorist financing.

15 (c) STATEMENTS OF POLICY.—The following shall be
16 the policies of the United States:

17 (1) To engage with the Government of Saudi
18 Arabia to openly confront the issue of terrorism, as
19 well as other problematic issues, such as the lack of
20 political freedoms, with the goal of restructuring the
21 relationship on terms that leaders of both countries
22 can publicly support.

23 (2) To enhance counterterrorism cooperation
24 with the Government of Saudi Arabia, if the political

1 leaders of such government are committed to making
2 a serious, sustained effort to combat terrorism.

3 (3) To support the efforts of the Government of
4 Saudi Arabia to make political, economic, and social
5 reforms throughout the country.

6 (d) STRATEGY RELATING TO SAUDI ARABIA.—

7 (1) REQUIREMENT FOR REPORT ON STRAT-
8 EGY.—Not later than 90 days after the date of the
9 enactment of this Act, the President shall submit to
10 the appropriate congressional committees a report,
11 in classified form if necessary, that describes the
12 progress on the Strategic Dialogue (established by
13 President George W. Bush and Crown Prince (now
14 King) Abdullah in April 2005) between the United
15 States and Saudi Arabia, including the progress
16 made in such Dialogue toward implementing the
17 long-term strategy of the United States to—

18 (A) engage with the Government of Saudi
19 Arabia to facilitate political, economic, and so-
20 cial reforms that will enhance the ability of the
21 Government of Saudi Arabia to combat inter-
22 national terrorism; and

23 (B) work with the Government of Saudi
24 Arabia to combat terrorism, including through

1 effective prevention of the financing of ter-
2 rorism by Saudi institutions and citizens.

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES DEFINED.—In this subsection the term “ap-
5 propriate congressional committees” means the
6 Committee on Foreign Affairs and the Committee on
7 Appropriations of the House of Representatives and
8 the Committee on Foreign Relations and the Com-
9 mittee on Appropriations of the Senate.

10 **TITLE XV—RAIL AND PUBLIC** 11 **TRANSPORTATION SECURITY**

12 **SEC. 1501. SHORT TITLE.**

13 This title may be cited as the “Rail and Public Trans-
14 portation Security Act of 2007”.

15 **SEC. 1502. DEFINITIONS.**

16 In this title, the following definitions apply:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” has the meaning that term has in section
20 2 of the Homeland Security Act of 2002 (6 U.S.C.
21 101) and includes the Committees on Homeland Se-
22 curity and Transportation and Infrastructure of the
23 House of Representatives and the Committees on
24 Homeland Security and Governmental Affairs and

1 Commerce, Science, and Transportation of the Sen-
2 ate.

3 (2) APPROPRIATE STAKEHOLDERS.—The term
4 “appropriate stakeholders” means—

5 (A) providers of covered transportation;

6 (B) organizations representing providers of
7 covered transportation;

8 (C) nonprofit employee labor organizations
9 representing railroad, public transportation, or
10 over-the-road bus workers;

11 (D) shippers of hazardous material;

12 (E) manufacturers of railroad cars, public
13 transportation cars and buses, and over-the-
14 road buses;

15 (F) State departments of transportation,
16 regional agencies, and metropolitan planning
17 organizations;

18 (G) public safety officials;

19 (H) law enforcement and fire service offi-
20 cials; and

21 (I) other relevant persons.

22 (3) COVERED TRANSPORTATION.—The term
23 “covered transportation” means transportation pro-
24 vided by a railroad carrier, a provider of public
25 transportation, or an over-the-road bus.

1 (4) DEPARTMENT.—The term “Department”
2 means the Department of Homeland Security.

3 (5) DESIGNATED RECIPIENT.—The term “des-
4 ignated recipient” has the meaning that the term
5 has in section 5307(a) of title 49, United States
6 Code.

7 (6) PROVIDER OF COVERED TRANSPOR-
8 TATION.—The term “provider of covered transpor-
9 tation” means—

10 (A) with respect to transportation provided
11 by a railroad carrier, the railroad carrier;

12 (B) with respect to public transportation,
13 the designated recipient; and

14 (C) with respect to transportation provided
15 by an over-the-road bus, the private operator.

16 (7) OVER-THE-ROAD BUS.—The term “over-the-
17 road bus” means a bus characterized by an elevated
18 passenger deck located over a baggage compartment.

19 (8) PUBLIC TRANSPORTATION.—The term
20 “public transportation” has the meaning that term
21 has in section 5302(a) of title 49, United States
22 Code.

23 (9) RAILROAD.—The term “railroad” has the
24 meaning that term has in section 20102 of title 49,
25 United States Code.

1 (10) RAILROAD CARRIER.—The term “railroad
2 carrier” has the meaning that term has in section
3 20102 of title 49, United States Code.

4 (11) SECRETARY.—The term “Secretary”
5 means the Secretary of Homeland Security.

6 (12) STATE.—The term “State” means any one
7 of the 50 States, the District of Columbia, Puerto
8 Rico, the Northern Mariana Islands, the Virgin Is-
9 lands, Guam, American Samoa, and any other terri-
10 tory or possession of the United States.

11 (13) TERRORISM.—The term “terrorism” has
12 the meaning that term has in section 2 of the Home-
13 land Security Act of 2002 (6 U.S.C. 101).

14 (14) TRANSPORTATION.—The term “transporta-
15 tion”, as used with respect to an over-the-road-
16 bus, means the movement of passengers or property
17 by an over-the-road-bus—

18 (A) in the jurisdiction of the United States
19 between a place in a State and a place outside
20 the State (including a place outside the United
21 States); or

22 (B) in a State that affects trade, traffic,
23 and transportation described in subparagraph
24 (A).

1 (15) UNITED STATES.—The term “United
2 States” means the 50 States, the District of Colum-
3 bia, Puerto Rico, the Northern Mariana Islands, the
4 Virgin Islands, Guam, American Samoa, and any
5 other territory or possession of the United States.

6 **SEC. 1503. NO PREEMPTION OF STATE LAW.**

7 (a) NO PREEMPTION OF STATE LAW.—Nothing in
8 section 20106 of title 49, United States Code, preempts
9 a State cause of action, or any damages recoverable in
10 such an action, including negligence, recklessness, and in-
11 tentional misconduct claims, unless compliance with State
12 law would make compliance with Federal requirements im-
13 possible. Nothing in section 20106 of title 49, United
14 States Code, confers Federal jurisdiction of a question for
15 such a cause of action.

16 (b) SECRETARIAL POWER.—Section 20106 of title
17 49, United States Code, preempts only positive laws, regu-
18 lations, or orders by executive or legislative branch offi-
19 cials that expressly address railroad safety or security.
20 The Secretary and the Secretary of Transportation have
21 the power to preempt such positive enactments by sub-
22 stantially subsuming the same subject matter, pursuant
23 to proper administrative procedures.

**Subtitle A—Rail and Public
Transportation Security**

**SEC. 1511. NATIONAL STRATEGY FOR RAIL AND PUBLIC
TRANSPORTATION SECURITY.**

(a) MODAL PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop and implement the modal plan for covered transportation as required by section 114(t)(1)(B) of title 49, United States Code. The modal plan shall be entitled the “National Strategy for Rail and Public Transportation Security” and shall include, at a minimum—

(1) a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, government sponsored entities, tribal governments, and appropriate stakeholders under the plan;

(2) identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities described in paragraph (1);

(3) a methodology for how the Department will work with the entities described in paragraph (1), and make use of existing Federal expertise within the Department, the Department of Transportation, and other appropriate agencies;

1 (4) a process for providing security clearances
2 to facilitate intelligence and information sharing
3 with the entities described in paragraph (1);

4 (5) a description of—

5 (A) how the Department has reviewed ter-
6 rorist attacks on covered transportation
7 throughout the world in the last 25 years;

8 (B) the lessons learned from those reviews;
9 and

10 (C) how those lessons are being used in
11 current and future efforts to secure covered
12 transportation;

13 (6) a strategy and timeline for the Department,
14 the Department of Transportation, other appro-
15 priate Federal agencies and private entities to re-
16 search and develop new technologies for securing
17 covered transportation;

18 (7) measurable goals, including objectives,
19 mechanisms, and a schedule for enhancing the secu-
20 rity of covered transportation;

21 (8) a framework for resuming the operation of
22 covered transportation in the event of an act of ter-
23 rorism and prioritizing resumption of such oper-
24 ations;

1 (9) a description of current and future public
2 outreach and educational initiatives designed to in-
3 form the public on how to prevent, prepare for, re-
4 spond to, and recover from a terrorist attack on cov-
5 ered transportation; and

6 (10) a process for coordinating covered trans-
7 portation security strategies and plans, including the
8 National Infrastructure Protection Plan required by
9 Homeland Security Presidential Directive 7; Execu-
10 tive Order: Strengthening Surface Transportation
11 Security dated December 5, 2006; the Memorandum
12 of Understanding between the Department and the
13 Department of Transportation on Roles and Respon-
14 sibilities dated September 28, 2004; the Annex to
15 the Memorandum of Understanding between the De-
16 partment and the Department of Transportation on
17 Roles and Responsibilities concerning railroad secu-
18 rity dated September 28, 2006, and the Annex to
19 the Memorandum of Understanding between the De-
20 partment and the Department of Transportation on
21 Roles and Responsibilities concerning Public Trans-
22 portation Security dated September 8, 2005.

23 (b) ADEQUACY OF EXISTING PLANS AND STRATE-
24 GIES.—Nothing in this section shall prevent the Secretary
25 from using existing plans and strategies, including those

1 developed or implemented pursuant to section 114(t) of
2 title 49, United States Code, or Homeland Security Presi-
3 dential Directive–7, in meeting the requirements of sub-
4 section (a).

5 **SEC. 1512. ASSIGNMENT OF PROVIDERS OF COVERED**
6 **TRANSPORTATION TO RISK-BASED TIERS.**

7 (a) ASSIGNMENT.—The Secretary shall assign each
8 provider of covered transportation to one of the not less
9 than three risk-based tiers established by the Secretary.

10 (b) PROVISION OF INFORMATION.—The Secretary
11 may request, and the provider of covered transportation
12 shall provide, information necessary for the Secretary to
13 assign a provider of covered transportation to the appro-
14 priate tier under subsection (a).

15 (c) NOTIFICATION.—Not later than 60 days after the
16 date a provider of covered transportation is assigned to
17 a tier under this section, the Secretary shall notify the
18 provider of the tier to which the provider is assigned and
19 the reasons for such assignment.

20 (d) HIGH- AND MEDIUM-RISK TIERS.—At least two
21 of the tiers established by the Secretary under this section
22 shall be tiers designated for high- and medium-risk pro-
23 viders of covered transportation.

1 **SEC. 1513. RAIL AND PUBLIC TRANSPORTATION ASSESS-**
2 **MENTS AND PLANS.**

3 (a) IN GENERAL.—Not later than 12 months after
4 the date of enactment of this Act, the Secretary shall issue
5 regulations that—

6 (1) require each provider of covered transpor-
7 tation assigned to a high- or medium-risk tier under
8 section 1512—

9 (A) to conduct a vulnerability assessment
10 in accordance with subsections (b) and (c); and

11 (B) to prepare, submit to the Secretary for
12 approval, and implement a security plan in ac-
13 cordance with this section that addresses secu-
14 rity performance requirements under subsection
15 (f); and

16 (2) establish standards, and guidelines for vul-
17 nerability assessments under subsection (c) and se-
18 curity plans under subsection (d) and for developing
19 and implementing such security plans.

20 (3) establish a security program for providers of
21 covered transportation not assigned to a high or me-
22 dium-risk tier under section 1512, including a proc-
23 ess for providers to conduct vulnerability assess-
24 ments and prepare and implement security plans, as
25 determined appropriate by the Secretary.

1 (b) DEADLINE FOR SUBMISSION.—Not later than 6
2 months after the date of issuance of the regulations under
3 subsection (a), the vulnerability assessments and security
4 plans required by such regulations for a provider of cov-
5 ered transportation assigned to a high- or medium-risk
6 tier shall be completed and submitted to the Secretary for
7 review and approval.

8 (c) VULNERABILITY ASSESSMENTS.—

9 (1) REQUIREMENTS.—The Secretary shall pro-
10 vide technical assistance and guidance to providers
11 of covered transportation in conducting vulnerability
12 assessments under this section and shall require that
13 each vulnerability assessment of a provider of cov-
14 ered transportation assigned to a high- or medium-
15 risk tier under section 1512 include, at a min-
16 imum—

17 (A) identification and evaluation of critical
18 covered transportation assets and infrastruc-
19 tures of the provider, including platforms, sta-
20 tions, bus and intermodal terminals, tunnels,
21 bridges, switching and storage areas, and infor-
22 mation systems;

23 (B) identification of the threats to those
24 assets and infrastructures;

1 (C) identification of the security weak-
2 nesses of the covered transportation in—

3 (i) physical security;

4 (ii) passenger and cargo security;

5 (iii) programmable electronic devices,
6 computers, or other automated systems
7 which are used in providing the transpor-
8 tation;

9 (iv) alarms, cameras, and other pro-
10 tection systems;

11 (v) communications systems, including
12 dispatching services and mobile service
13 equipment systems, to provide access to
14 emergency services in underground fixed
15 guideway systems;

16 (vi) utilities;

17 (vii) emergency response planning;

18 (viii) employee training; and

19 (ix) such other matters as the Sec-
20 retary determines appropriate; and

21 (D) identification of redundant and backup
22 systems required to ensure the continued oper-
23 ations of critical elements of the covered trans-
24 portation in the event of an attack or other in-

1 cident, including disruption of commercial elec-
2 tric power or communications network.

3 (2) THREAT INFORMATION.—A provider of cov-
4 ered transportation conducting a vulnerability as-
5 sessment under this section shall incorporate in the
6 assessment any threat information provided by the
7 Secretary and other sources.

8 (d) SECURITY PLANS.—

9 (1) REQUIREMENTS.—The Secretary shall pro-
10 vide technical assistance and guidance to providers
11 of covered transportation in preparing and imple-
12 menting security plans under this section and shall
13 require that each security plan of each provider of
14 covered transportation assigned a high- or medium-
15 risk under section 1512 include, at a minimum—

16 (A) identification of a security coordinator
17 having authority—

18 (i) to implement security actions
19 under the plan;

20 (ii) to coordinate security improve-
21 ments described in sections 1515, 1516,
22 and 1517; and

23 (iii) to receive immediate communica-
24 tions from appropriate Federal officials re-
25 garding covered transportation security;

1 (B) plans for periodic exercises under sec-
2 tion 1530 that include participation by local law
3 enforcement agencies and emergency responders
4 as appropriate;

5 (C) a list of needed capital and operational
6 improvements such as those described in sec-
7 tions 1515, 1516, and 1517;

8 (D) procedures to be implemented or used
9 by the provider in response to a terrorist at-
10 tack, including evacuation and passenger com-
11 munication plans that include individuals with
12 disabilities;

13 (E) identification of steps taken with State
14 and local law enforcement agencies, emergency
15 responders, and Federal officials to coordinate
16 security measures and plans for response to a
17 terrorist attack;

18 (F) a strategy and timeline for conducting
19 training under section 1519, including recur-
20 rent training and periodic unannounced exer-
21 cises for employees of the provider to be carried
22 out under the plan to prevent, prepare for, or
23 respond to a terrorist attack;

1 (G) enhanced security measures to be
2 taken by the provider when the Secretary de-
3 clares a period of heightened security risk;

4 (H) plans for redundant and backup sys-
5 tems required to ensure the continued operation
6 of critical covered transportation elements of
7 the provider in the event of a terrorist attack
8 or other incident;

9 (I) plans for locating, including by covert
10 electronic devices, shipments of railroad cars
11 transporting security sensitive materials or nu-
12 clear waste so that, if the assets are lost or sto-
13 len, the provider or law enforcement authorities
14 may locate, track, and recover the assets;

15 (J) a strategy for implementing enhanced
16 security for shipments of security sensitive ma-
17 terials under section 1534; and

18 (K) such other actions or procedures as
19 the Secretary determines are appropriate to ad-
20 dress the covered transportation security of the
21 provider to a terrorist attack.

22 (2) SECURITY COORDINATOR REQUIREMENTS.—
23 The Secretary shall require that the individual serv-
24 ing as the security coordinator identified in para-
25 graph (1)(A) is a citizen of the United States. The

1 Secretary may waive this requirement with respect
2 to an individual if the Secretary determines that it
3 is appropriate to do so based on a background check
4 of the individual and a review of terrorist watch lists
5 to ensure that the individual is not identified on any
6 such terrorist watch list.

7 (3) CONSISTENCY WITH OTHER PLANS.—The
8 Secretary shall ensure that each security plan under
9 this section is consistent with the requirements of
10 the National Strategy for Rail and Public Transpor-
11 tation Security described in section 1511.

12 (e) PROVIDED BY SECRETARY.—The Secretary shall
13 provide, in a timely manner to the maximum extent prac-
14 ticable under applicable authority and in the interest of
15 national security, to the provider of the covered transpor-
16 tation threat information that is relevant to the provider
17 when preparing and submitting a vulnerability assessment
18 and security plan, including an assessment of the most
19 likely method that could be used by terrorists to exploit
20 weaknesses in the covered transportation security and the
21 likelihood of success by such terrorists.

22 (f) SECURITY PERFORMANCE REQUIREMENTS.—The
23 Secretary shall, by regulation, establish security perform-
24 ance requirements for the security plans required for pro-
25 viders of covered transportation. The regulations shall—

1 (1) require separate and increasingly stringent
2 security performance requirements for security plans
3 as the level of risk associated with the tier increases;
4 and

5 (2) permit each provider of covered transpor-
6 tation submitting a security plan to select a com-
7 bination of security measures that satisfy the secu-
8 rity performance requirements established by the
9 Secretary under this subsection.

10 (g) DEADLINE FOR REVIEW PROCESS.—Not later
11 than 12 months after the date of the issuance of the regu-
12 lations under subsection (a), the Secretary shall—

13 (1) review each vulnerability assessment and se-
14 curity plan submitted to the Secretary in accordance
15 with subsection (b);

16 (2) require amendments to any security plan
17 that does not meet the requirements of this section,
18 including the regulations issued under subsection
19 (a);

20 (3) approve any vulnerability assessment or se-
21 curity plan that meets the requirements of this sec-
22 tion, including such regulations; and

23 (4) review each security plan periodically there-
24 after.

1 (h) INTERIM SECURITY MEASURES.—The Secretary
2 shall require, during the period before the deadline estab-
3 lished under subsection (b), each provider of covered
4 transportation required to submit a security plan under
5 subsection (b) to implement any necessary interim security
6 measures to deter, mitigate, and respond to, to the max-
7 imum extent practicable, a transportation security inci-
8 dent with respect to the covered transportation or a sub-
9 stantive threat of such an incident until the security plan
10 of the provider is approved.

11 (i) NONDISCLOSURE OF INFORMATION.—

12 (1) IN GENERAL.—Nothing in this title shall be
13 construed to require the disclosure of a vulnerability
14 assessment or a security plan of a provider of cov-
15 ered transportation to the extent that such informa-
16 tion is exempted from mandatory disclosure under
17 section 552 of title 5, United States Code.

18 (2) OTHER OBLIGATIONS UNAFFECTED.—Noth-
19 ing in this section shall affect any obligation of the
20 provider of covered transportation to submit or
21 make available information to covered transportation
22 employees, nonprofit employee labor organizations,
23 or a Federal, State, or local government agency
24 under, or otherwise to comply with, any other law.

1 (3) SUBMISSION OF INFORMATION TO CON-
2 GRESS.—Nothing in this section shall be construed
3 as authorizing the withholding of any information
4 from Congress.

5 (4) DISCLOSURE OF INDEPENDENTLY FUR-
6 NISHED INFORMATION.—Nothing in this section
7 shall be construed as affecting any authority or obli-
8 gation of a Federal agency to disclose any record or
9 information that the Federal agency obtains from a
10 provider of covered transportation under any other
11 law.

12 (j) PENALTIES.—

13 (1) ADMINISTRATIVE PENALTIES.—

14 (A) IN GENERAL.—The Secretary may im-
15 pose an administrative penalty of not more than
16 \$100,000 for failure to comply with this sec-
17 tion, including regulations issued under sub-
18 section (a).

19 (B) NOTICE AND OPPORTUNITY TO RE-
20 QUEST HEARING.—Before imposing a penalty
21 under subparagraph (A), the Secretary shall
22 provide to the person against whom the penalty
23 is to be imposed—

24 (i) written notice of the proposed pen-
25 alty; and

1 (ii) the opportunity to request, not
2 later than 30 days after the date on which
3 the person receives the notice, a hearing on
4 the proposed penalty.

5 (C) REGULATIONS.—The Secretary may
6 issue regulations establishing the procedures for
7 administrative hearings and appropriate review
8 of penalties imposed under this subtitle, includ-
9 ing deadlines.

10 (2) CIVIL PENALTIES.—

11 (A) IN GENERAL.—The Secretary may
12 bring an action in a United States district court
13 against any provider of covered transportation
14 that violates or fails to comply with this sub-
15 title, including regulations issued under sub-
16 section (a), or a security plan approved by the
17 Secretary under this section.

18 (B) RELIEF.—In any action under this
19 subtitle, a court may issue an order for injunc-
20 tive relief and may impose a civil penalty of not
21 more than \$75,000 for each day on which a vio-
22 lation occurs or a failure to comply continues.

23 (3) CRIMINAL PENALTIES.—A provider of cov-
24 ered transportation who intentionally violates this
25 section, including regulations issued under sub-

1 section (a), shall be fined not more than \$50,000 for
2 each day of such violation, imprisoned for not more
3 than 2 years, or both.

4 (k) EXISTING PROCEDURES, PROTOCOLS AND
5 STANDARDS.—

6 (1) DETERMINATION.—In response to a peti-
7 tion by a provider of covered transportation or at
8 the discretion of the Secretary, the Secretary may
9 recognize existing procedures, protocols, and stand-
10 ards of a provider of covered transportation that the
11 Secretary determines to meet all or part of the re-
12 quirements of this section, including regulations
13 issued under subsection (a), regarding vulnerability
14 assessments and security plans.

15 (2) ELECTION.—Upon review and written de-
16 termination by the Secretary that existing proce-
17 dures, protocols, or standards of a provider of cov-
18 ered transportation satisfy all of the requirements of
19 this section, including regulations issued under sub-
20 section (a), the provider may elect to comply with
21 those procedures, protocols, or standards instead of
22 the requirements of this section.

23 (3) PARTIAL APPROVAL.—If the Secretary de-
24 termines that the existing procedures, protocols, or
25 standards of a provider of covered transportation

1 satisfy only part of the requirements of this section,
2 including regulations issued under subsection (a),
3 the Secretary may accept such submission, but shall
4 require submission by the provider of any additional
5 information relevant to the vulnerability assessment
6 and security plan of the provider to ensure that the
7 remaining requirements of this section are fulfilled.

8 (4) NOTIFICATION.—If the Secretary deter-
9 mines that particular existing procedures, protocols,
10 or standards of a provider of covered transportation
11 under this subsection do not satisfy the require-
12 ments of this section, including regulations issued
13 under subsection (a), the Secretary shall provide to
14 such provider a written notification that includes an
15 explanation of the reasons why the determination
16 could not be made.

17 (5) REVIEW.—Nothing in this subsection shall
18 relieve the Secretary of the obligation—

19 (A) to review the vulnerability assessment
20 and security plan submitted by a provider of
21 covered transportation under this section; and

22 (B) to approve or disapprove each submis-
23 sion on an individual basis.

24 (1) PERIODIC REVIEW BY PROVIDER OF COVERED
25 TRANSPORTATION REQUIRED.—

1 (1) SUBMISSION OF REVIEW.—Not later than 3
2 years after the date on which a vulnerability assess-
3 ment or security plan required to be submitted to
4 the Secretary under subsection (b) is submitted, and
5 at least once every 5 years thereafter (or on such a
6 schedule as the Secretary may establish by regula-
7 tion), the provider of covered transportation who
8 submitted the vulnerability assessment or security
9 plan shall also submit to the Secretary a review of
10 the adequacy of the vulnerability assessment or secu-
11 rity plan that includes a description of any material
12 changes made to the vulnerability assessment or se-
13 curity plan.

14 (2) REVIEW OF REVIEW.—Not later than 180
15 days after the date on which a review is submitted,
16 the Secretary shall review the review and notify the
17 provider of covered transportation submitting the re-
18 view of the Secretary's approval or disapproval of
19 such review.

20 (m) SHARED FACILITIES.—The Secretary may per-
21 mit under this section the development and implementa-
22 tion of coordinated vulnerability assessments and security
23 plans to the extent 2 or more providers of covered trans-
24 portation have shared facilities (such as tunnels, bridges,

1 or stations, or facilities) that are geographically close or
2 otherwise co-located.

3 (n) FERRY EXEMPTION.—This section does not apply
4 to any ferry system for which a vulnerability assessment
5 and security plan is required pursuant to chapter 701 of
6 title 46, United States Code.

7 (o) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, the Secretary, in consultation
9 with the Secretary of Transportation, shall submit a re-
10 port to the appropriate congressional committees regard-
11 ing the feasibility of implementing name-based checks
12 against terrorist watch lists for all National Railroad Pas-
13 senger Corporation passengers.

14 **SEC. 1514. INFORMATION SHARING PLAN.**

15 (a) IN GENERAL.—Not later than 90 days after the
16 date of enactment of this Act, the Secretary shall develop
17 and submit to the appropriate congressional committees
18 a railroad, public transportation, and over-the-road bus in-
19 formation sharing plan to ensure the development of both
20 tactical and strategic intelligence products pertaining to
21 the threats and vulnerabilities to covered transportation
22 for dissemination to Federal, State, and local agencies,
23 tribal governments, and appropriate stakeholders.

24 (b) CONTENT OF PLAN.—The plan submitted under
25 subsection (a) shall include—

1 (1) a description of how intelligence analysts in
2 the Transportation Security Administration are co-
3 ordinating with other intelligence analysts in the De-
4 partment and other Federal, State, and local agen-
5 cies;

6 (2) reasonable deadlines for the completion of
7 any organizational changes within the Department
8 to accommodate implementation of the plan; and

9 (3) a description of resource needs for fulfilling
10 the plan.

11 (c) UPDATES.—

12 (1) CERTIFICATION OF IMPLEMENTATION.—

13 After the plan is submitted under subsection (a), the
14 Secretary shall certify to the appropriate congres-
15 sional committees when the plan has been imple-
16 mented.

17 (2) ANNUAL REPORTS.—After the Secretary
18 provides the certification under paragraph (1), the
19 Secretary shall provide a report to the appropriate
20 congressional committees each year thereafter on the
21 following:

22 (A) The number and brief description of
23 each railroad, public transportation, and over-
24 the-road bus intelligence report created and dis-
25 seminated under the plan.

1 (B) The classification of each report as
2 tactical or strategic.

3 (C) The numbers of different government,
4 law enforcement, and public or private sector
5 partners who the Department provided with
6 each intelligence product.

7 (d) ANNUAL SURVEYS.—The Secretary shall conduct
8 an annual survey of the satisfaction of each of the recipi-
9 ents of railroad, public transportation, and over-the-road
10 bus intelligence reports created and disseminated under
11 the plan and include the results of the survey as part of
12 the corresponding annual report provided under sub-
13 section (c)(2).

14 (e) CLASSIFICATION OF MATERIAL.—To the greatest
15 extent possible, the Department shall provide appropriate
16 stakeholders with information in an unclassified format.

17 (f) SECURITY CLEARANCES.—The Department shall
18 assist the appropriate Federal, State, regional, local, and
19 tribal authorities, in addition to appropriate stakeholders,
20 in obtaining the security clearances needed to receive clas-
21 sified covered transportation security information as nec-
22 essary if this information cannot be disseminated in an
23 unclassified format.

1 **SEC. 1515. RAIL SECURITY ASSISTANCE.**

2 (a) IN GENERAL.—The Secretary shall establish a
3 program for making grants to eligible entities for security
4 improvements described in subsection (b).

5 (b) USES OF FUNDS.—A recipient of a grant under
6 this section shall use the grant funds for one or more of
7 the following:

8 (1) Perimeter protection systems, including ac-
9 cess control, installation of improved lighting, fenc-
10 ing, and barricades at railroad facilities.

11 (2) Technologies to reduce the vulnerability of
12 railroad cars.

13 (3) Passenger railroad station security capital
14 improvement projects that the Secretary determines
15 enhance rail station security.

16 (4) Security improvements to passenger rail-
17 road stations and other railroad transportation in-
18 frastructure, including stations and other railroad
19 transportation infrastructure owned by State or local
20 governments.

21 (5) Tunnel protection systems.

22 (6) Evacuation improvements.

23 (7) Inspection technologies, including verified
24 visual inspection technologies using hand-held read-
25 ers and discs.

1 (8) Communications equipment, including
2 equipment that is interoperable with Federal, State,
3 and local agencies and tribal governments.

4 (9) Chemical, biological, radiological, or explo-
5 sive detection, including canine patrols for such de-
6 tection.

7 (10) Surveillance equipment.

8 (11) Cargo or passenger screening equipment.

9 (12) Railroad security inspection facilities and
10 related infrastructure at United States international
11 borders, including additional side railroad track nec-
12 essary for passenger and freight train security in-
13 spection.

14 (13) Emergency response equipment, including
15 fire suppression and decontamination equipment,
16 personal protective equipment, and defibrillators.

17 (14) Global positioning or tracking and recovery
18 equipment.

19 (15) Redundant critical operations control sys-
20 tems.

21 (16) Operating and capital costs associated
22 with security awareness, preparedness, and response
23 training, including training under section 1519 and
24 training developed by universities and institutions of
25 higher education and by nonprofit employee labor

1 organizations, for railroad employees, including
2 front-line employees.

3 (17) Live or simulated exercises described in
4 section 1520.

5 (18) Overtime reimbursement for additional se-
6 curity personnel during periods of heightened secu-
7 rity as determined by the Secretary.

8 (19) Public awareness campaigns for enhanced
9 rail security.

10 (20) Operational costs for personnel assigned to
11 full-time security or counterterrorism duties related
12 to rail transportation.

13 (21) Such other security improvements as the
14 Secretary considers appropriate.

15 (c) DEPARTMENT OF HOMELAND SECURITY RE-
16 SPONSIBILITIES.—In carrying out the responsibilities
17 under subsection (a), the Secretary shall—

18 (1) determine the requirements for recipients of
19 grants under this section, including application re-
20 quirements;

21 (2) pursuant to subsection (f), determine who
22 are the recipients of grants under this section;

23 (3) pursuant to subsection (b), determine the
24 uses for which grant funds may be used under this
25 section;

1 (4) establish priorities for uses of funds for
2 grant recipients under this section; and

3 (5) not later than 5 business days after making
4 determinations under paragraphs (1) through (4),
5 transfer grant funds under this section to the Sec-
6 retary of Transportation for distribution to the re-
7 cipients of grants determined by the Secretary under
8 paragraph (2).

9 (d) DEPARTMENT OF TRANSPORTATION RESPON-
10 SIBILITIES.—The Secretary of Transportation shall dis-
11 tribute grant funds under this section to the recipients of
12 grants determined by the Secretary under subsection (f).

13 (e) MONITORING AND AUDITING.—The Department
14 of Homeland Security and the Department of Transpor-
15 tation jointly shall monitor and audit the use of funds
16 under this section.

17 (f) ELIGIBILITY.—A railroad carrier is eligible for a
18 grant under this section if the carrier has completed a vul-
19 nerability assessment and developed a security plan that
20 the Secretary has approved under section 1513. Grant
21 funds may only be used for permissible uses under sub-
22 section (b) to further a rail security plan.

23 (g) MULTIYEAR AWARDS.—Pursuant to this section,
24 the Secretary may issue multi-year grants for not longer
25 than a 5-year period.

1 (h) LETTERS OF INTENT.—

2 (1) ISSUANCE.—The Secretary may issue a let-
3 ter of intent to a recipient of a grant under this sec-
4 tion, to commit funding from future budget author-
5 ity of an amount, not more than the Federal Gov-
6 ernment's share of the project's cost, for a capital
7 improvement project.

8 (2) SCHEDULE.—The letter of intent under this
9 subsection shall establish a schedule under which the
10 Secretary will reimburse the recipient for the Fed-
11 eral Government's share of the project's costs, as
12 amounts become available, if the recipient, after the
13 Secretary issues that letter, carries out the project
14 without receiving amounts under a grant issued
15 under this section.

16 (3) NOTICE TO SECRETARY.—A recipient that
17 has been issued a letter of intent under this section
18 shall notify the Secretary of the recipient's intent to
19 carry out a project before the project begins.

20 (4) NOTICE TO CONGRESS.—The Secretary
21 shall transmit to the appropriate congressional com-
22 mittees a written notification at least 3 days before
23 the issuance of a letter of intent under this sub-
24 section.

1 (5) LIMITATIONS.—A letter of intent issued
2 under this subsection is not an obligation of the
3 Federal Government under section 1501 of title 31,
4 United States Code, and the letter is not deemed to
5 be an administrative commitment for financing. An
6 obligation or administrative commitment may be
7 made only as amounts are provided in authorization
8 and appropriations laws.

9 (6) STATUTORY CONSTRUCTION.—Nothing in
10 this section shall be construed to prohibit the obliga-
11 tion of amounts pursuant to a letter of intent under
12 this section in the same fiscal year as the letter of
13 intent is issued.

14 (i) FEDERAL SHARE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graphs (2) and (3), a grant for a project under this
17 section shall be for 80 percent of the net cost of the
18 project.

19 (2) SMALL PROJECT EXCEPTION.—If a grant
20 under this section is for a project with a net cost of
21 \$25,000 or less, the Federal share for the grant
22 shall be for 100 percent of such cost.

23 (3) NATIONAL SECURITY EXCEPTION.—If the
24 Secretary determines, upon written notice to the ap-
25 propriate congressional committees, that a higher

1 Federal share for a grant under this section is nec-
2 essary to respond to an urgent threat to national se-
3 curity, the Secretary may increase the Federal share
4 for the grant to up to 100 percent of the net cost
5 of the project.

6 (4) APPLICABILITY.—This subsection shall only
7 apply to freight railroad carriers.

8 (j) SUBJECT TO CERTAIN STANDARDS.—A recipient
9 of a grant under this section and section 1518 shall be
10 required to comply with the standards of section 24312
11 of title 49, United States Code, as in effect on January
12 1, 2007, with respect to the project in the same manner
13 as the National Railroad Passenger Corporation is re-
14 quired to comply with such standards for construction
15 work financed under an agreement made under section
16 24308(a) of that title.

17 (k) LIMITATION ON USES OF FUNDS.—A grant made
18 under this section may not be used—

19 (1) to supplant State or local funds; and

20 (2) to make any State or local government cost-
21 sharing contribution under any other law.

22 (l) ANNUAL REPORTS.—Each recipient of a grant
23 under this section shall report annually to the Secretary
24 on the use of grant funds.

1 (m) GUIDELINES.—Before distribution of funds to
2 recipients of grants under this section, the Secretary, shall
3 issue guidelines to ensure that, to the extent that recipi-
4 ents of grants under this section use contractors or sub-
5 contractors, such recipients use small, minority, women-
6 owned, or disadvantaged businesses as contractors or sub-
7 contractors to the extent practicable.

8 (n) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) IN GENERAL.—There are authorized to be
10 appropriated to the Secretary \$600,000,000 for each
11 of fiscal years 2008 through 2011 for making grants
12 under this section.

13 (2) PERIOD OF AVAILABILITY.—Sums appro-
14 priated to carry out this section shall remain avail-
15 able until expended.

16 **SEC. 1516. PUBLIC TRANSPORTATION SECURITY ASSIST-**
17 **ANCE.**

18 (a) IN GENERAL.—The Secretary shall establish a
19 program for making grants to an eligible public transpor-
20 tation designated recipient for security improvements de-
21 scribed in subsection (b).

22 (b) USES OF FUNDS.—A recipient of a grant under
23 subsection (a) shall use the grant funds for one or more
24 of the following:

1 (1) Perimeter protection systems, including ac-
2 cess control, installation of improved lighting, fenc-
3 ing, and barricades.

4 (2) Security improvements to stations and other
5 public transportation infrastructure, including sta-
6 tions and other public transportation infrastructure
7 owned by State or local governments.

8 (3) Tunnel protection systems.

9 (4) Evacuation improvements.

10 (5) Inspection technologies, including verified
11 visual inspection technologies using hand-held read-
12 ers and discs.

13 (6) Communications equipment, including mo-
14 bile service equipment to provide access to emer-
15 gency services in an underground fixed guideway
16 system.

17 (7) Chemical, biological, or radiological or ex-
18 plosive detection, including canine patrols for such
19 detection.

20 (8) Surveillance equipment.

21 (9) Emergency response equipment, including
22 fire suppression and decontamination equipment,
23 personal protective equipment, and defibrillators.

1 (10) Purchase and placement of bomb-resistant
2 trash cans throughout public transportation facili-
3 ties, including subway exits, entrances, and tunnels.

4 (11) Global positioning or tracking and recovery
5 equipment.

6 (12) Redundant critical operations control sys-
7 tems.

8 (13) Live or simulated exercises described in
9 section 1520.

10 (14) Public awareness campaigns for enhanced
11 public transportation security.

12 (15) Operating and capital costs associated
13 with security awareness, preparedness, and response
14 training, including training under section 1519 and
15 training developed by universities and institutions of
16 higher education and by nonprofit employee labor
17 organizations, for public transportation employees,
18 including front-line employees.

19 (16) Overtime reimbursement, including reim-
20 bursement of State, local, and tribal governments for
21 costs, for additional security personnel during peri-
22 ods of heightened security as determined by the Sec-
23 retary.

24 (17) Operational costs, including reimburse-
25 ment of State, local, and tribal governments for

1 costs for personnel assigned to full-time security or
2 counterterrorism duties related to public transpor-
3 tation.

4 (18) Such other security improvements as the
5 Secretary considers appropriate, including security
6 improvements for newly completed public transpor-
7 tation systems that are not yet operable for pas-
8 senger use.

9 (c) DEPARTMENT OF HOMELAND SECURITY RE-
10 SPONSIBILITIES.—In carrying out the responsibilities
11 under subsection (a), the Secretary shall—

12 (1) determine the requirements for recipients of
13 grants under this section, including application re-
14 quirements;

15 (2) pursuant to subsection (f), determine who
16 are the recipients of grants under this section;

17 (3) pursuant to subsection (b), determine the
18 uses for which grant funds may be used under this
19 section;

20 (4) establish priorities for uses of funds for
21 grant recipients under this section; and

22 (5) not later than 5 business days after making
23 determinations under paragraphs (1) through (4),
24 transfer grant funds under this section to the Sec-
25 retary of Transportation for distribution to the re-

1 recipients of grants determined by the Secretary under
2 paragraph (2).

3 (d) DEPARTMENT OF TRANSPORTATION RESPON-
4 SIBILITIES.—The Secretary of Transportation shall dis-
5 tribute grant funds under this section to the recipients of
6 grants determined by the Secretary under subsection (f).

7 (e) MONITORING AND AUDITING.—The Department
8 of Homeland Security and the Department of Transpor-
9 tation shall jointly monitor and audit the use of funds
10 under this section.

11 (f) ELIGIBILITY.—A designated recipient is eligible
12 for a grant under this section if the recipient has com-
13 pleted a vulnerability assessment and developed a security
14 plan that the Secretary has approved under section 1513.
15 Grant funds may only be used for permissible uses under
16 subsection (b) to further a public transportation security
17 plan.

18 (g) SUBJECT TO CERTAIN TERMS AND CONDI-
19 TIONS.—Except as otherwise specifically provided in this
20 section, a grant provided under this section shall be sub-
21 ject to the terms and conditions applicable to a grant
22 made under section 5307 of title 49, United States Code,
23 as in effect on January 1, 2007, and such other terms
24 and conditions as are determined necessary by the Sec-
25 retary.

1 (h) LIMITATION ON USES OF FUNDS.—Grants made
2 under this section may not be used—

3 (1) to supplant State or local funds; and

4 (2) to make any State or local government cost-
5 sharing contribution under any other law.

6 (i) ANNUAL REPORTS.—Each recipient of a grant
7 under this section shall report annually to the Secretary
8 on the use of the grant funds.

9 (j) GUIDELINES.—Before distribution of funds to re-
10 cipients of grants under this section, the Secretary shall
11 issue guidelines to ensure that, to the extent that recipi-
12 ents of grants under this section use contractors or sub-
13 contractors, such recipients shall use small, minority,
14 women-owned, or disadvantaged businesses as contractors
15 or subcontractors to the extent practicable.

16 (k) AUTHORIZATION OF APPROPRIATIONS.—

17 (1) IN GENERAL.—There are authorized to be
18 appropriated to the Secretary to make grants under
19 this section—

20 (A) \$775,000,000 for fiscal year 2008;

21 (B) \$825,000,000 for fiscal year 2009;

22 (C) \$880,000,000 for fiscal year 2010; and

23 (D) \$880,000,000 for fiscal year 2011.

1 (2) PERIOD OF AVAILABILITY.—Sums appro-
2 priated to carry out this section shall remain avail-
3 able until expended.

4 **SEC. 1517. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

5 (a) IN GENERAL.—The Secretary shall establish a
6 program for making grants for eligible private operators
7 providing transportation by an over-the-road bus for secu-
8 rity improvements described in subsection (b).

9 (b) USES OF FUNDS.—A recipient of a grant received
10 under subsection (a) shall use the grant funds for one or
11 more of the following:

12 (1) Constructing and modifying terminals, ga-
13 rages, facilities, or over-the-road buses to increase
14 their security, including terminals and other over-
15 the-road bus facilities owned by State or local gov-
16 ernments.

17 (2) Protecting or isolating the driver of an over-
18 the-road bus.

19 (3) Acquiring, upgrading, installing, or oper-
20 ating equipment, software, or accessorial services for
21 collection, storage, or exchange of passenger and
22 driver information through ticketing systems or oth-
23 erwise and for information links with government
24 agencies.

1 (4) Installing cameras and video surveillance
2 equipment on over-the-road buses and at terminals,
3 garages, and over-the-road bus facilities.

4 (5) Establishing and improving an emergency
5 communications system linking drivers and over-the-
6 road buses to the recipient's operations center or
7 linking the operations center to law enforcement and
8 emergency personnel.

9 (6) Implementing and operating passenger
10 screening programs for weapons and explosives.

11 (7) Public awareness campaigns for enhanced
12 over-the-road bus security.

13 (8) Operating and capital costs associated with
14 security awareness, preparedness, and response
15 training, including training under section 1519 and
16 training developed by universities and institutions of
17 higher education and by nonprofit employee labor
18 organizations, for over-the-road bus employees, in-
19 cluding front-line employees.

20 (9) Chemical, biological, radiological, or explo-
21 sive detection, including canine patrols for such de-
22 tection.

23 (10) Overtime reimbursement, including reim-
24 bursement of State, local, and tribal governments for
25 costs, for additional security personnel during peri-

1 ods of heightened security as determined by the Sec-
2 retary.

3 (11) Live or simulated exercises described in
4 section 1520.

5 (12) Operational costs, including reimburse-
6 ment of State, local, and tribal governments for such
7 costs, for personnel assigned to full-time security or
8 counterterrorism duties related to over-the-road bus
9 transportation.

10 (13) Such other improvements as the Secretary
11 considers appropriate.

12 (c) DEPARTMENT OF HOMELAND SECURITY RE-
13 SPONSIBILITIES.—In carrying out the responsibilities
14 under subsection (a), the Secretary shall—

15 (1) determine the requirements for recipients of
16 grants under this section, including application re-
17 quirements;

18 (2) pursuant to subsection (f), determine who
19 are the recipients of grants under this section;

20 (3) pursuant to subsection (b), determine the
21 uses for which grant funds may be used under this
22 section;

23 (4) establish priorities for uses of funds for
24 grant recipients under this section; and

1 (5) not later than 5 business days of making
2 determinations under paragraphs (1) through (4),
3 transfer grant funds under this section to the Sec-
4 retary of Transportation for distribution to the re-
5 cipients of grants determined by the Secretary under
6 paragraph (2).

7 (d) DEPARTMENT OF TRANSPORTATION RESPON-
8 SIBILITIES.—The Secretary of Transportation shall dis-
9 tribute grant funds under this section to the recipients of
10 grants determined by the Secretary under subsection (f).

11 (e) MONITORING AND AUDITING.—The Department
12 of Homeland Security and the Department of Transpor-
13 tation shall jointly monitor and audit the use of funds
14 under this section.

15 (f) ELIGIBILITY.—A private operator providing
16 transportation by an over-the-road bus is eligible for a
17 grant under this section if the operator has completed a
18 vulnerability assessment and developed a security plan
19 that the Secretary has approved under section 1513.
20 Grant funds may only be used for permissible uses under
21 subsection (b) to further an over-the-road bus security
22 plan.

23 (g) SUBJECT TO CERTAIN TERMS AND CONDI-
24 TIONS.—Except as otherwise specifically provided in this
25 section, a grant made under this section shall be subject

1 to the terms and conditions applicable to subrecipients
2 who provide intercity bus transportation under section
3 5311(f) of title 49, United States Code, and such other
4 terms and conditions as are determined necessary by the
5 Secretary.

6 (h) LIMITATION ON USES OF FUNDS.—A grant made
7 under this section may not be used to—

8 (1) supplant State or local funds for activities;
9 and

10 (2) make any State or local government cost-
11 sharing contribution under any other law.

12 (i) ANNUAL REPORTS.—Each recipient of a grant
13 under this section shall report annually to the Secretary
14 and the Secretary of Transportation on the use of such
15 grant funds.

16 (j) GUIDELINES.—Before distribution of funds to re-
17 cipients of grants under this section, the Secretary shall
18 issue guidelines to ensure that to the extent that recipients
19 of grants under this section use contractors or subcontract-
20 tors, such recipients shall use small, minority, women-
21 owned, and disadvantaged businesses as contractors or
22 subcontractors to the extent practicable.

23 (k) AUTHORIZATION.—

1 (1) IN GENERAL.—There is authorized to be
2 appropriated to the Secretary to make grants under
3 this section—

4 (A) \$12,000,000 for fiscal year 2008; and

5 (B) \$25,000,000 for each of fiscal years
6 2009 through 2011.

7 (2) PERIOD OF AVAILABILITY.—Sums appro-
8 priated to carry out this section shall remain avail-
9 able until expended.

10 **SEC. 1518. FIRE AND LIFE SAFETY IMPROVEMENTS.**

11 (a) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary of
13 Transportation for making grants to the National Rail-
14 road Passenger Corporation, for the purpose of carrying
15 out projects to make fire and life safety improvements to
16 Amtrak tunnels on the Northeast Corridor the following
17 amounts:

18 (1) For the 6 tunnels in New York City, New
19 York, to provide ventilation, electrical, and fire safe-
20 ty technology improvements, emergency communica-
21 tion and lighting systems, and emergency access and
22 egress for passengers—

23 (A) \$25,000,000 for fiscal year 2008;

24 (B) \$25,000,000 for fiscal year 2009;

25 (C) \$25,000,000 for fiscal year 2010; and

1 (D) \$25,000,000 for fiscal year 2011.

2 (2) For the Baltimore & Potomac Tunnel and
3 the Union Tunnel in Baltimore, Maryland, to pro-
4 vide adequate drainage and ventilation, communica-
5 tion, lighting, standpipe, and passenger egress im-
6 provements—

7 (A) \$5,000,000 for fiscal year 2008;

8 (B) \$5,000,000 for fiscal year 2009;

9 (C) \$5,000,000 for fiscal year 2010; and

10 (D) \$5,000,000 for fiscal year 2011.

11 (3) For the Union Station tunnels in the Dis-
12 trict of Columbia to provide ventilation, communica-
13 tion, lighting, and passenger egress improvements—

14 (A) \$5,000,000 for fiscal year 2008;

15 (B) \$5,000,000 for fiscal year 2009;

16 (C) \$5,000,000 for fiscal year 2010; and

17 (D) \$5,000,000 for fiscal year 2011.

18 (b) AVAILABILITY OF AMOUNTS.—Amounts appro-
19 priated pursuant to this section shall remain available
20 until expended.

21 (c) GUIDELINES.—Before distribution of funds to re-
22 cipients of grants under this section, the Secretary of
23 Transportation shall issue guidelines to ensure that, to the
24 extent that recipients of grants under this section use con-
25 tractors or subcontractors, such recipients shall use small,

1 minority, women-owned, or disadvantaged businesses as
2 the contractors or subcontractors to the extent practicable.

3 **SEC. 1519. SECURITY TRAINING PROGRAM.**

4 (a) IN GENERAL.—Not later than 90 days after the
5 date of enactment of this Act, the Secretary shall—

6 (1) develop security training programs to pre-
7 pare all railroad, public transportation, and over-the-
8 road bus workers, including front-line employees, for
9 potential threat conditions; and

10 (2) issue detailed guidance for the program.

11 (b) CONSULTATION.—The Secretary shall develop the
12 guidance under subsection (a)(2) in consultation with—

13 (1) appropriate law enforcement, fire service,
14 security, and terrorism experts;

15 (2) representatives of providers of covered
16 transportation; and

17 (3) nonprofit employee labor organizations rep-
18 resenting railroad, public transportation, over-the-
19 road bus workers, or emergency response personnel.

20 (c) PROGRAM ELEMENTS.—The guidance developed
21 under subsection (a)(2) shall require security training pro-
22 grams described in subsection (a) to include, at a min-
23 imum, elements to address the following:

24 (1) Determination of the seriousness of any oc-
25 currence or threat.

1 (2) Crew and passenger communication and co-
2 ordination.

3 (3) Appropriate responses to defend oneself, in-
4 cluding using nonlethal defense devices.

5 (4) Evacuation procedures for passengers and
6 workers, including individuals with disabilities.

7 (5) Live situational training exercises regarding
8 various threat conditions, including tunnel evacu-
9 ation procedures.

10 (6) Recognition and reporting of dangerous
11 substances and suspicious packages, persons, and
12 situations.

13 (7) Understanding security incident procedures,
14 including procedures for communicating with gov-
15 ernmental and nongovernmental emergency response
16 providers and for on-scene interaction with such
17 emergency response providers.

18 (8) Operation and maintenance of security
19 equipment and systems.

20 (9) Other security training activities that the
21 Secretary considers appropriate.

22 (d) REQUIRED PROGRAMS.—

23 (1) DEVELOPMENT AND SUBMISSION TO SEC-
24 RETARY.—Not later than 60 days after the Sec-
25 retary issues guidance under subsection (a)(2), each

1 provider of covered transportation shall develop a se-
2 curity training program in accordance with the guid-
3 ance developed under subsection (2) and submit the
4 program to the Secretary for approval.

5 (2) APPROVAL.—Not later than 60 days after
6 receiving a security training program proposal under
7 this subsection, the Secretary shall approve the pro-
8 gram or require the provider of covered transpor-
9 tation that developed the program to make any revi-
10 sions to the program that the Secretary considers
11 necessary for the program to meet the guidance re-
12 quirements.

13 (3) TRAINING.—Not later than 1 year after the
14 Secretary approves a security training program pro-
15 posal under this subsection, the provider of covered
16 transportation that developed the program shall
17 complete the training of all workers covered under
18 the program.

19 (4) UPDATES.—The Secretary shall periodically
20 review and update as appropriate the training guid-
21 ance issued under subsection (a)(2) to reflect new or
22 changing security threats and require providers of
23 covered transportation to revise their programs ac-
24 cordingly and provide additional training to their
25 workers as necessary.

1 (e) NATIONAL TRAINING PROGRAM.—The Secretary
2 shall ensure that the training program developed under
3 subsection (a) is a component of the National Training
4 Program established under section 648 of the Department
5 of Homeland Security Appropriations Act of 2007 (6
6 U.S.C. 748).

7 (f) FERRY EXEMPTION.—This section does not apply
8 to any ferry system for which training is required to be
9 conducted pursuant to section 70103 of title 46, United
10 States Code.

11 (g) REPORTING REQUIREMENTS.—Not later than
12 one year after the issuance of guidelines under subsection
13 (a)(2), the Secretary shall conduct a survey regarding the
14 satisfaction of workers regarding the effectiveness and
15 adequacy of the training programs. In addition, the Sec-
16 retary shall submit a report to the appropriate congres-
17 sional committees regarding the results of the survey and
18 the progress of providers of covered transportation in
19 meeting the requirements of paragraphs (1) and (3) of
20 subsection (d).

21 **SEC. 1520. SECURITY EXERCISES.**

22 (a) IN GENERAL.—The Secretary shall establish a
23 program for conducting security exercises for covered
24 transportation for the purpose of assessing and improving
25 the capabilities of entities described in subsection (b) to

1 prevent, prepare for, mitigate against, respond to, and re-
2 cover from acts of terrorism involving covered transpor-
3 tation.

4 (b) COVERED ENTITIES.—Entities to be assessed
5 under the program shall include—

6 (1) Federal, State, and local agencies and tribal
7 governments;

8 (2) employees and managers of providers of
9 covered transportation;

10 (3) governmental and nongovernmental emer-
11 gency response providers and law enforcement per-
12 sonnel, including railroad and transit police; and

13 (4) any other organization or entity that the
14 Secretary determines appropriate.

15 (c) REQUIREMENTS.—The Secretary shall ensure
16 that the program—

17 (1) working jointly with the Secretary of Trans-
18 portation, consolidates all existing security exercises
19 for covered transportation administered by the De-
20 partment and the Department of Transportation;

21 (2) requires, on a periodic basis, at the facilities
22 a provider of covered transportation, exercises to be
23 conducted that are—

24 (A) scaled and tailored to the needs of the
25 facilities, including individuals with disabilities;

1 (B) live, in the case of the most at-risk fa-
2 cilities to a terrorist attack;

3 (C) coordinated with appropriate officials
4 of covered transportation providers;

5 (D) as realistic as practicable and based on
6 current risk assessments, including credible
7 threats, vulnerabilities, and consequences; and

8 (E) consistent with the National Incident
9 Management System, the National Response
10 Plan, the National Infrastructure Protection
11 Plan, the National Preparedness Guidance, the
12 National Preparedness Goal, and other such na-
13 tional initiatives;

14 (3) provides that exercises described in para-
15 graph (2) will be—

16 (A) evaluated against clear and consistent
17 performance measures;

18 (B) assessed to learn best practices, which
19 shall be shared with appropriate Federal, State,
20 local, and tribal officials, governmental and
21 nongovernmental emergency response providers,
22 law enforcement personnel, including railroad
23 and transit police, and appropriate stake-
24 holders; and

1 (C) followed by remedial action in response
2 to lessons learned;

3 (4) includes exercises involving covered trans-
4 portation at or near the international land borders
5 of the United States and in coordination with inter-
6 national stakeholders;

7 (5) involves individuals in neighborhoods
8 around the infrastructure of a provider of covered
9 transportation; and

10 (6) assists State, local, and tribal governments
11 and providers of covered transportation in designing,
12 implementing, and evaluating exercises that conform
13 to the requirements of paragraph (2).

14 (d) REMEDIAL ACTION MANAGEMENT PROGRAM.—
15 The Secretary shall utilize the remedial action manage-
16 ment program of the Federal Emergency Management
17 Agency to—

18 (1) identify and analyze each exercise conducted
19 under the program for lessons learned and best
20 practices;

21 (2) disseminate lessons learned and best prac-
22 tices to participants in the program;

23 (3) monitor the implementation of lessons
24 learned and best practices by participants in the
25 program; and

1 (4) conduct remedial action tracking and long-
2 term trend analysis.

3 (f) NATIONAL TRAINING PROGRAM.—The Secretary
4 shall ensure that the training program developed under
5 subsection (a) is a component of the National Training
6 Program established under section 648 of the Department
7 of Homeland Security Appropriations Act of 2007 (6
8 U.S.C. 748).

9 (g) FERRY SYSTEM EXEMPTION.—This section does
10 not apply to any ferry for which drills are required to be
11 conducted pursuant to section 70103 of title 46, United
12 States Code.

13 **SEC. 1521. SECURITY RESEARCH AND DEVELOPMENT.**

14 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
15 MENT PROGRAM.—The Secretary shall carry out a re-
16 search and development program for the purpose of im-
17 proving the security of covered transportation.

18 (b) ELIGIBLE PROJECTS.—The research and develop-
19 ment program may include projects—

20 (1) to reduce the vulnerability of passenger
21 trains, stations, and equipment to explosives and
22 hazardous chemical, biological, and radioactive sub-
23 stances including the development of technology to
24 screen passengers in large numbers at peak com-

1 muting times with minimal interference and disrup-
2 tion;

3 (2) to test new emergency response and recov-
4 ery techniques and technologies, including those
5 used at international borders;

6 (3) to develop improved railroad technologies,
7 including—

8 (A) technologies for sealing or modifying
9 railroad tank cars;

10 (B) automatic inspection of railroad cars;

11 (C) communication-based train controls;

12 (D) signal system integrity at switches;

13 (E) emergency response training, including
14 training in a tunnel environment;

15 (F) security and redundancy for critical
16 communications, electrical power, computer,
17 and train control systems; and

18 (G) technologies for securing bridges and
19 tunnels;

20 (4) to test wayside detectors that can detect
21 tampering;

22 (5) to support enhanced security for the trans-
23 portation of security sensitive materials by railroad;

24 (6) to mitigate damages in the event of a
25 cyberattack;

1 (7) to assess the vulnerabilities and risks asso-
2 ciated with new rail and public transportation con-
3 struction projects prior to their completion; and

4 (8) to address other vulnerabilities and risks
5 identified by the Secretary.

6 (c) COORDINATION WITH OTHER RESEARCH INITIA-
7 TIVES.—The Secretary shall—

8 (1) ensure that the research and development
9 program is consistent with the National Strategy for
10 Rail and Public Transportation Security developed
11 under section 1511; and

12 (2) to the greatest extent practicable, coordi-
13 nate the research and development activities of the
14 Department with other ongoing research and devel-
15 opment security related initiatives, including re-
16 search being conducted by—

17 (A) the National Academy of Sciences;

18 (B) the Department of Transportation, in-
19 cluding University Transportation Centers and
20 other institutes, centers, and simulators funded
21 by the Department of Transportation;

22 (C) the Technical Support Working Group;

23 (D) other Federal departments and agen-
24 cies; and

1 (E) other Federal and private research lab-
2 oratories, research entities, and universities and
3 institutions of higher education, including His-
4 torically Black Colleges or Universities, and
5 Hispanic Serving Institutions or Tribal Univer-
6 sities, with the capability to conduct both prac-
7 tical and theoretical research and technical sys-
8 tems analysis on subjects that include bridge,
9 tunnel, blast, and infrastructure protection;

10 (3) carry out any research and development
11 project authorized by this section through a reim-
12 bursable agreement with the appropriate agency or
13 entity official, if the agency or entity—

14 (A) is currently sponsoring a research and
15 development project in a similar area; or

16 (B) has a unique facility or capability that
17 would be useful in carrying out the project;

18 (4) award grants, cooperative agreements, con-
19 tracts, other transactions, or reimbursable agree-
20 ments to the entities described in subsection (c)(2)
21 and shall adopt necessary procedures, including au-
22 dits, to ensure that awards made under this section
23 are expended in accordance with the purposes of this
24 subtitle and the priorities and other criteria devel-
25 oped by the Secretary; and

1 (5) make reasonable efforts to enter into memo-
2 randa of understanding, contracts, grants, coopera-
3 tive agreements, or other transactions with owners
4 and operators of freight and intercity passenger rail
5 and over-the-road bus facilities willing to contribute
6 both physical space and other resources.

7 (d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIB-
8 ERTIES ISSUES.—

9 (1) CONSULTATION.—In carrying out research
10 and development projects under this section, the
11 Secretary shall consult with the Chief Privacy Offi-
12 cer of the Department and the Officer for Civil
13 Rights and Civil Liberties of the Department as ap-
14 propriate and in accordance with section 222 of the
15 Homeland Security Act of 2002 (6 U.S.C. 142).

16 (2) PRIVACY IMPACT ASSESSMENTS.—In ac-
17 cordance with sections 222 and 705 of the Home-
18 land Security Act of 2002 (6 U.S.C. 142; 345), the
19 Chief Privacy Officer shall conduct privacy impact
20 assessments and the Officer for Civil Rights and
21 Civil Liberties shall conduct reviews, as appropriate,
22 for research and development initiatives developed
23 under this section.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary to carry
3 out this section—

- 4 (1) \$50,000,000 for fiscal year 2008;
5 (2) \$50,000,000 for fiscal year 2009;
6 (3) \$50,000,000 for fiscal year 2010; and
7 (4) \$50,000,000 for fiscal year 2011.

8 Such sums shall remain available until expended.

9 **SEC. 1522. WHISTLEBLOWER PROTECTIONS.**

10 (a) IN GENERAL.—No covered individual may be dis-
11 charged, demoted, suspended, threatened, harassed, rep-
12 rimanded, investigated, or in any other manner discrimi-
13 nated against, including by a denial, suspension, or rev-
14 ocation of a security clearance or by any other security
15 access determination, if such discrimination is due, in
16 whole or in part, to any lawful act done, perceived to have
17 been done, or intended to be done by the covered indi-
18 vidual—

- 19 (1) to provide information, cause information to
20 be provided, or otherwise assist in an investigation
21 regarding any conduct which the covered individual
22 reasonably believes constitutes a violation of any
23 law, rule, or regulation relating to rail, public trans-
24 portation, or over-the-road-bus security, which the
25 covered individual reasonably believes constitutes a

1 threat to rail, public transportation, or over-the-
2 road-bus security, or which the covered individual
3 reasonably believes constitutes fraud, waste, or mis-
4 management of Government funds intended to be
5 used for rail, public transportation, or over-the-road-
6 bus security, if the information or assistance is pro-
7 vided to or the investigation is conducted by—

8 (A) by a Federal, State, or local regulatory
9 or law enforcement agency (including an office
10 of the Inspector General under the Inspector
11 General Act of 1978 (5 U.S.C. App.; Public
12 Law 95–452);

13 (B) any Member of Congress, any com-
14 mittee of Congress, or the Government Ac-
15 countability Office; or

16 (C) a person with supervisory authority
17 over the covered individual (or such other per-
18 son who has the authority to investigate, dis-
19 cover, or terminate);

20 (2) to file, cause to be filed, testify, participate
21 in, or otherwise assist in a proceeding or action filed
22 or about to be filed relating to an alleged violation
23 of any law, rule, or regulation relating to rail, public
24 transportation, or over-the-road bus security; or

1 (3) to refuse to violate or assist in the violation
2 of any law, rule, or regulation relating to rail public
3 transportation, or over-the-road bus security.

4 (b) ENFORCEMENT ACTION.—

5 (1) IN GENERAL.—A covered individual who al-
6 leges discharge or other discrimination by any per-
7 son in violation of subsection (a) may—

8 (A) in the case of a covered individual who
9 is employed by the Department or the Depart-
10 ment of Transportation, seek relief in accord-
11 ance with—

12 (i) the provisions of title 5, United
13 States Code, to the same extent and in the
14 same manner as if such individual were
15 seeking relief from a prohibited personnel
16 practice described in section 2302(b)(8) of
17 such title; and

18 (ii) the amendments made by section
19 1522A;
20 except that, if the disclosure involved consists in
21 whole or in part of classified or sensitive infor-
22 mation, clauses (i) and (ii) shall not apply, and
23 such individual may seek relief in the same
24 manner as provided by section 1522B;

1 (B) in the case of a covered individual who
2 is a contractor or subcontractor of the Depart-
3 ment or the Department of Transportation,
4 seek relief in accordance with section 1522B;
5 and

6 (C) in the case of any other covered indi-
7 vidual, seek relief in accordance with the provi-
8 sions of this section, with any petition or other
9 request for relief under this section to be initi-
10 ated by filing a complaint with the Secretary of
11 Labor.

12 (2) PROCEDURE.—

13 (A) IN GENERAL.—An action under para-
14 graph (1)(C) shall be governed under the rules
15 and procedures set forth in section 42121(b) of
16 title 49, United States Code.

17 (B) EXCEPTION.—Notification made under
18 section 42121(b)(1) of title 49, United States
19 Code, shall be made to the person named in the
20 complaint and to the person's employer.

21 (C) BURDENS OF PROOF.—An action
22 brought under paragraph (1)(C) shall be gov-
23 erned by the legal burdens of proof set forth in
24 section 42121(b) of title 49, United States
25 Code.

1 (D) STATUTE OF LIMITATIONS.—An action
2 under paragraph (1)(C) shall be commenced not
3 later than 1 year after the date on which the
4 violation occurs.

5 (3) DE NOVO REVIEW.—With respect to a com-
6 plaint under paragraph (1)(C), if the Secretary of
7 Labor has not issued a final decision within 180
8 days after the filing of the complaint (or, in the
9 event that a final order or decision is issued by the
10 Secretary of Labor, whether within the 180-day pe-
11 riod or thereafter, then, not later than 90 days after
12 such an order or decision is issued), the covered in-
13 dividual may bring an original action at law or eq-
14 uity for de novo review in the appropriate district
15 court of the United States, which shall have jurisdic-
16 tion over such an action without regard to the
17 amount in controversy, and which action shall, at
18 the request of either party to such action, be tried
19 by the court with a jury.

20 (c) REMEDIES.—

21 (1) IN GENERAL.—A covered individual pre-
22 vailing in any action under subsection (b)(1)(C)
23 shall be entitled to all relief necessary to make the
24 covered individual whole.

1 (2) DAMAGES.—Relief in an action under sub-
2 section (b)(1)(C) (including an action described in
3 subsection (b)(3)) shall include—

4 (A) reinstatement with the same seniority
5 status that the covered individual would have
6 had, but for the discrimination;

7 (B) the amount of any back pay, with in-
8 terest; and

9 (C) compensation for any special damages
10 sustained as a result of the discrimination, in-
11 cluding litigation costs, expert witness fees, and
12 reasonable attorney fees.

13 (3) POSSIBLE RELIEF.—Relief in an action
14 under subsection (b)(1)(C) may include punitive
15 damages in an amount not to exceed the greater of
16 3 times the amount of any compensatory damages
17 awarded under this section or \$5,000,000.

18 (d) USE OF STATE SECRETS PRIVILEGE.—

19 (1) If, in any action for relief sought by a cov-
20 ered individual in accordance with the provisions of
21 subsection (b)(1)(A), (B), or (C), the Government
22 agency moves to withhold information from dis-
23 covery based on a claim that disclosure would be in-
24 imical to national security by asserting the privilege
25 commonly referred to as the “state secrets privi-

1 lege”, and if the assertion of such privilege prevents
2 the covered individual from establishing an element
3 in support of the covered individual’s claim, the
4 court shall resolve the disputed issue of fact or law
5 in favor of the covered individual, provided that, in
6 an action brought by a covered individual in accord-
7 ance with the provisions of subsection (b)(1)(A) or
8 (B), an Inspector General investigation under sec-
9 tion 1522B has resulted in substantial confirmation
10 of that element, or those elements, of the covered in-
11 dividual’s claim.

12 (2) In any case in which the Government agen-
13 cy asserts the privilege commonly referred to as the
14 “state secrets privilege”, whether or not an Inspec-
15 tor General has conducted an investigation with re-
16 spect to the alleged discrimination, the head of the
17 Government agency involved shall, at the same time
18 it asserts the privilege, issue a report to authorized
19 Members of Congress, accompanied by a classified
20 annex if necessary, describing the reasons for the as-
21 sertion, explaining why the court hearing the matter
22 does not have the ability to maintain the protection
23 of classified information related to the assertion, de-
24 tailing the steps the agency has taken to arrive at
25 a mutually agreeable settlement with the covered in-

1 dividual, setting forth the date on which the classi-
2 fied information at issue will be declassified, and
3 providing all relevant information about the under-
4 lying substantive matter.

5 (e) CRIMINAL PENALTIES.—

6 (1) IN GENERAL.—It shall be unlawful for any
7 person employing a covered individual described in
8 subsection (b)(1)(C) to commit an act prohibited by
9 subsection (a). Any person who willfully violates this
10 section by terminating or retaliating against any
11 such covered individual who makes a claim under
12 this section shall be fined under title 18, United
13 States Code, imprisoned not more than 1 year, or
14 both.

15 (2) REPORTING REQUIREMENT.—

16 (A) IN GENERAL.—The Attorney General
17 shall submit to the appropriate congressional
18 committees an annual report on the enforce-
19 ment of paragraph (1).

20 (B) CONTENTS.—Each such report shall—

21 (i) identify each case in which formal
22 charges under paragraph (1) were brought;

23 (ii) describe the status or disposition
24 of each such case; and

1 (iii) in any actions under subsection
2 (b)(1)(C) in which the covered individual
3 was the prevailing party or the substan-
4 tially prevailing party, indicate whether or
5 not any formal charges under paragraph
6 (1) have been brought and, if not, the rea-
7 sons therefor.

8 (f) NO PREEMPTION.—Nothing in this section, sec-
9 tion 5112A, or section 5112B preempts or diminishes any
10 other safeguards against discrimination, demotion, dis-
11 charge, suspension, threats, harassment, reprimand, retal-
12 iation, or any other manner of discrimination provided by
13 Federal or State law.

14 (g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—
15 Nothing in this section, section 1522A, or section 1522B
16 shall be deemed to diminish the rights, privileges, or rem-
17 edies of any covered individual under any Federal or State
18 law or under any collective bargaining agreement. The
19 rights and remedies in this section, section 1522A and sec-
20 tion 1522B may not be waived by any agreement, policy,
21 form, or condition of employment.

22 (h) DEFINITIONS.—In this section, section 1522A
23 and section 1522B, the following definitions apply:

24 (1) COVERED INDIVIDUAL.—The term “covered
25 individual” means an employee of—

1 (A) the Department;

2 (B) the Department of Transportation;

3 (C) a contractor or subcontractor; and

4 (D) an employer within the meaning of
5 section 701(b) of the Civil Rights Act of 1964
6 (42 U.S.C. 2000e(b)) and who is a provider of
7 covered transportation.

8 (2) **LAWFUL.**—The term “lawful” means not
9 specifically prohibited by law, except that, in the
10 case of any information the disclosure of which is
11 specifically prohibited by law or specifically required
12 by Executive order to be kept classified in the inter-
13 est of national defense or the conduct of foreign af-
14 fairs, any disclosure of such information to any
15 Member of Congress, committee of Congress, or
16 other recipient authorized to receive such informa-
17 tion, shall be deemed lawful.

18 (3) **CONTRACTOR.**—The term “contractor”
19 means a person who has entered into a contract with
20 the Department, the Department of Transportation,
21 or a provider of covered transportation.

22 (4) **EMPLOYEE.**—The term “employee”
23 means—

24 (A) with respect to an employer referred to
25 in paragraph (1)(A) or (1)(B), an employee as

1 defined by section 2105 of title 5, United States
2 Code; and

3 (B) with respect to an employer referred to
4 in paragraph (1)(C) or (1)(D), any officer,
5 partner, employee, or agent.

6 (5) SUBCONTRACTOR.—The term “subcon-
7 tractor”—

8 (A) means any person, other than the con-
9 tractor, who offers to furnish or furnishes any
10 supplies, materials, equipment, or services of
11 any kind under a contract with the Depart-
12 ment, the Department of Transportation, or a
13 provider of covered transportation; and

14 (B) includes any person who offers to fur-
15 nish or furnishes general supplies to the con-
16 tractor or a higher tier subcontractor.

17 (6) PERSON.—The term “person” means a cor-
18 poration, partnership, State entity, business associa-
19 tion of any kind, trust, joint-stock company, or indi-
20 vidual.

21 **SEC. 1523. INCREASE IN SURFACE TRANSPORTATION SECU-**
22 **RITY INSPECTORS.**

23 (a) IN GENERAL.—The Secretary shall increase the
24 total number of positions for full-time surface transpor-
25 tation security inspectors of the Department so that by

1 December 31, 2010, the total number of such positions
2 is at least 600.

3 (b) QUALIFICATIONS.—Surface transportation secu-
4 rity inspectors hired by the Secretary shall have at least
5 1 year or equivalent experience in conducting inspections
6 and investigations and engaging in testing security sys-
7 tems and any other qualifications that the Secretary deter-
8 mines appropriate.

9 (c) ROLES AND RESPONSIBILITIES.—The Secretary,
10 in consultation with appropriate State, local, and tribal of-
11 ficials, shall develop a standard operating procedure clear-
12 ly defining the relationship between—

13 (1) surface transportation security inspectors of
14 the Department and safety inspectors of the Depart-
15 ment of Transportation; and

16 (2) State, local, and tribal law enforcement offi-
17 cers and other law enforcement personnel, including
18 railroad and public transportation police.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary to carry
21 out subsection (a) such sums as may be necessary. Such
22 sums shall remain available until expended.

1 **SEC. 1524. NATIONAL DOMESTIC PREPAREDNESS CONSOR-**
2 **TIUM.**

3 (a) IN GENERAL.—There is in the Department of
4 Homeland Security a National Domestic Preparedness
5 Consortium.

6 (b) MEMBERS.—The National Domestic Prepared-
7 ness Consortium that identifies, develops, tests, and deliv-
8 ers training to State, local, and tribal emergency response
9 providers, provides onsite and mobile training at the per-
10 formance and management and planning levels, and facili-
11 tates the delivery of awareness level training by the train-
12 ing partners of the Department shall consist of—

13 (1) the Center for Domestic Preparedness;

14 (2) the National Energetic Materials Research
15 and Testing Center, New Mexico Institute of Mining
16 and Technology;

17 (3) the National Center for Biomedical Re-
18 search and Training, Louisiana State University;

19 (4) the National Emergency Response and Res-
20 cue Training Center, Texas A&M University;

21 (5) the National Exercise, Test, and Training
22 Center, Nevada Test Site; and

23 (6) the Transportation Technology Center in
24 Pueblo, Colorado.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary—

4 (1) to at least maintain the funding level of fis-
5 cal year 2007 for each member of the National Do-
6 mestic Preparedness Consortium listed in subsection
7 (b) in existence prior to the inclusion of the Trans-
8 portation Technology Center in the Consortium; and

9 (2) in fiscal years 2008 through 2011, increase
10 the funding level for each member of the National
11 Domestic Preparedness Consortium to not less than
12 3 percent of the amount made available for the pre-
13 ceding fiscal year.

14 **SEC. 1525. AUTHORIZATION OF VISIBLE INTERMODAL PRO-**
15 **TECTION RESPONSE TEAMS.**

16 The Secretary, acting through the Administrator of
17 the Transportation Security Administration, is authorized
18 to develop Visible Intermodal Protection Response (re-
19 ferred to in this section as “VIPR”) teams designed to
20 augment security for any mode of transportation at any
21 location within the United States. In forming a VIPR
22 team, the Secretary—

23 (1) may use any asset of the Department, in-
24 cluding Federal air marshals, surface transportation

1 security inspectors, canine detection teams, and ad-
2 vanced screening technology;

3 (2) has the discretion to determine, consistent
4 with ongoing security threats, when a VIPR should
5 be deployed, as well as the duration of the deploy-
6 ment in coordination with local security and law en-
7 forcement officials; and

8 (3) prior to deployments, shall consult with
9 local security and law enforcement officials in the ju-
10 risdiction where the VIPR Team is planned to de-
11 ploy, to develop and agree upon the appropriate op-
12 erating protocols and in order to educate those offi-
13 cials regarding the mission of the VIPR teams.

14 **SEC. 1526. NATIONAL TRANSPORTATION SECURITY CENTER**
15 **OF EXCELLENCE.**

16 (a) ESTABLISHMENT.—The Secretary shall establish
17 a National Transportation Security Center of Excellence
18 at an institution of higher education to conduct research
19 and education activities, and to develop or provide profes-
20 sional security training, including the training of rail and
21 public transportation employees and rail and public trans-
22 portation-related professionals, with emphasis on utiliza-
23 tion of intelligent transportation systems, technologies,
24 and architectures.

1 (b) CRITERIA.—The Secretary shall select an institu-
2 tion of higher education to operate the National Transpor-
3 tation Security Center of Excellence according to the fol-
4 lowing selection criteria:

5 (1) The demonstrated commitment of the insti-
6 tution to transportation security issues.

7 (2) The use of and experience with partnerships
8 with other institutions of higher education, Federal
9 laboratories, or other nonprofit laboratories.

10 (3) Capability to conduct both practical and
11 theoretical research and technical systems analysis.

12 (4) Utilization of intelligent transportation sys-
13 tem technologies and architectures.

14 (5) Ability to develop professional security
15 training programs.

16 (6) Capability and willingness to conduct edu-
17 cation of transportation security professionals.

18 (7) Such other criteria as the Secretary may
19 designate.

20 (c) CONSORTIUM.—

21 (1) CONSORTIUM.—The institution of higher
22 education selected under subsection (b) shall execute
23 agreements with other institutions of higher edu-
24 cation to develop a consortium to assist in accom-
25 plishing the goals of the Center.

1 (2) EXPERIENCE.—The consortium shall in-
2 clude universities and institutions of higher edu-
3 cation that have existing transportation programs.

4 (3) CERTAIN INCLUSIONS.—At least two of the
5 consortium colleges and universities associated with
6 the National Transportation Security Center of Ex-
7 cellence shall be an Historically Black College or
8 University, an Hispanic Serving Institution, or Trib-
9 al University, even if the primary institution is one
10 of the aforementioned institutions of higher edu-
11 cation.

12 (4) DEGREE PROGRAM.—Of the universities se-
13 lected under paragraph (2), at least one shall have
14 an established degree and an advanced degree pro-
15 gram in transportation studies.

16 (d) TRAINING.—If the consortium does not include
17 the National Transit Institute, the consortium shall work
18 with the National Transit Institute on training programs.

19 (e) FUNDING.—The Secretary shall provide such
20 funding as is necessary to the National Transportation Se-
21 curity Center of Excellence established under subsection
22 (a) to carry out this section.

1 **SEC. 1527. TSA PERSONNEL LIMITATIONS.**

2 Any statutory limitation on the number of employees
3 in the Transportation Security Administration does not
4 apply to employees carrying out this subtitle.

5 **SEC. 1528. HOMELAND SECURITY GRANTS.**

6 Notwithstanding any provision of this subtitle, all
7 grants distributed for security-related purposes pursuant
8 to this subtitle, shall be administered on the basis of risk.

9 **SEC. 1529. THREAT ASSESSMENT SCREENING.**

10 Not later than 180 days after the date of the enact-
11 ment of this Act, the Secretary shall implement a threat
12 assessment screening program, including name-based
13 checks against terrorist watch lists and immigration sta-
14 tus check, for all employees of covered transportation, that
15 is the same as the threat assessment screening program
16 required for facility employees and longshoremen by the
17 Commandant of the Coast Guard under Coast Guard No-
18 tice USCG–2006–24189 (71 Fed. Reg. 25066 (Friday,
19 April 28, 2006)).

20 **SEC. 1530. BACKGROUND CHECKS FOR COVERED INDIVID-**
21 **UALS.**

22 (a) DEFINITIONS.—In this section, the following defi-
23 nitions apply:

24 (1) BACKGROUND CHECKS.—The term “back-
25 ground check” means a check of the following:

26 (A) Relevant criminal history databases.

1 (B) In the case of an alien (as defined in
2 the Immigration and Nationality Act (8 U.S.C.
3 1101(a)(3)), the relevant databases to deter-
4 mine the status of the alien under the immigra-
5 tion laws of the United States.

6 (2) COVERED INDIVIDUALS.—The term “cov-
7 ered individual” means an employee of—

8 (A) an employer, within the meaning of
9 section 701(b) of the Civil Rights Act of 1964
10 (42 U.S.C. 2000e(b)), who is a provider of cov-
11 ered transportation; or

12 (B) a contractor or subcontractor of such
13 an employer.

14 (b) REDRESS PROCESS.—If a provider of covered
15 transportation conducts background checks in order to
16 satisfy any rules, regulations, directives, or other guidance
17 issued by the Secretary to protect covered transportation
18 from the threat of terrorism, the provider of covered trans-
19 portation shall provide an adequate redress process.

20 (c) STANDARDS FOR REDRESS PROCESS.—

21 (1) IN GENERAL.—The Secretary shall ensure
22 that each provider of covered transportation imple-
23 ments a redress process in accordance with sub-
24 section (b) for covered individuals adversely im-

1 pacted by a background check described in sub-
2 section (b).

3 (2) STANDARDS.—The redress process shall be
4 modeled after the appeals and waiver process estab-
5 lished for hazmat drivers and transportation workers
6 at ports, as required by section 1515 of title 49,
7 Code of Federal Regulations.

8 (3) COMPONENTS.—The redress process shall
9 include the following:

10 (A) A waiver process that will allow a cov-
11 ered individual to demonstrate, through reha-
12 bilitation, or facts surrounding the conviction or
13 other mitigating factors, that the individual is
14 not a security risk.

15 (B) An appeal process during which a cov-
16 ered individual will have an opportunity to dem-
17 onstrate that the individual does not have a dis-
18 qualifying conviction either by—

19 (i) correcting outdated underlying
20 court records;

21 (ii) proving mistaken identity; or

22 (iii) establishing that the conviction
23 cannot serve as the basis for an adverse
24 employment decision in accordance with
25 the limitations contained in subsection (d).

1 (C) A proceeding providing an independent
2 review.

3 (D) A process to ensure compliance with
4 the requirements of this section.

5 (4) PROCEEDINGS PROVIDING AN INDE-
6 PENDENT REVIEW.—A covered individual who re-
7 quests a proceeding under paragraph (3)(C) shall
8 have the right to have waiver and appeal decisions
9 heard by an independent decisionmaker with the
10 ability to order reinstatement expeditiously or pro-
11 vide other remedy.

12 (5) PREVIOUS BACKGROUND CHECKS.—A cov-
13 ered individual subjected to and adversely affected
14 by a background check conducted by a provider of
15 covered transportation (or a contractor or subcon-
16 tractor of such a provider), in the period beginning
17 on June 23, 2006, and ending on the date of enact-
18 ment of this Act, to satisfy any rules, regulations,
19 directives, or other guidance issued by the Secretary
20 to protect covered transportation from the threat of
21 terrorism shall have an immediate right to a pro-
22 ceeding with an independent decisionmaker to deter-
23 mine if the adverse action was in compliance with
24 this section and shall have a right to immediate rein-

1 statement or other remedy if the background check
2 fails to comply with this section.

3 (d) LIMITATIONS.—

4 (1) IN GENERAL.—Subject to paragraph (2), if
5 an employer performs background checks to satisfy
6 any rule, regulation, directive, or other guidance
7 issued by the Secretary regarding background checks
8 of covered individuals, the employer shall be prohib-
9 ited from making an adverse employment decision,
10 including removal or suspension, with respect to a
11 covered individual based on—

12 (A) a felony conviction that occurred 7 or
13 more years ago;

14 (B) a conviction of any offense for which
15 the individual was released from incarceration 5
16 or more years ago; or

17 (C) any felony not listed in section
18 1572.103 of title 49, Code of Federal Regula-
19 tions.

20 (2) EXCEPTIONS.—The limitations contained in
21 paragraph (1) shall not apply to a covered individual
22 who has been convicted of any of the following:

23 (A) Treason (or conspiracy to commit trea-
24 son).

1 (B) Espionage (or conspiracy to commit
2 espionage).

3 (C) Sedition (or conspiracy to commit sedi-
4 tion).

5 (D) Any crime listed in chapter 113B of
6 title 18, United States Code (or conspiracy to
7 commit such a crime).

8 (e) NO PREEMPTION OF FEDERAL OR STATE LAW.—
9 Nothing in this section shall be construed as preempting
10 a Federal, State, or local law that requires criminal his-
11 tory background checks of covered employees.

12 (f) STATUTORY CONSTRUCTION.—Nothing in this
13 section shall be construed to affect the process for review
14 established under section 70105(c) of title 46, United
15 States Code, including regulations issued pursuant to such
16 section.

17 **SEC. 1531. TASK FORCE ON DISQUALIFYING CRIMES.**

18 (a) ESTABLISHMENT.—The Secretary shall establish
19 a task force to review the lists of crimes that disqualify
20 individuals from certain transportation-related employ-
21 ment under current regulations of the Transportation Se-
22 curity Administration and assess whether such lists of
23 crimes are accurate indicators of a terrorism security risk.

24 (b) MEMBERSHIP.—The task force shall be composed
25 of representatives of appropriate industries, including rep-

1 representatives of nonprofit employee labor organizations,
2 and Federal agencies.

3 (c) REPORT.—Not later than 180 days after the date
4 of enactment of this Act, the task force shall transmit to
5 the Secretary and Congress a report containing the results
6 of the review, including recommendations for a common
7 list of disqualifying crimes and the rationale for the inclu-
8 sion of each crime on the list.

9 **SEC. 1532. PENALTIES.**

10 (a) REGULATIONS AND ORDERS OF THE SEC-
11 RETARY.—Section 114 of title 49, United States Code, is
12 amended by adding at the end the following:

13 “(u) GENERAL CIVIL PENALTIES AND ENFORCE-
14 MENT OF REGULATIONS AND ORDERS OF THE SEC-
15 RETARY OF HOMELAND SECURITY.—

16 “(1) APPLICATION.—This subsection applies to
17 the enforcement of regulations prescribed, and or-
18 ders issued, by the Secretary of Homeland Security
19 under a provision of chapter 701 of title 46 and this
20 title (other than chapter 449) (in this subsection re-
21 ferred to as an ‘applicable provision of this title’).
22 Penalties for violation of regulations prescribed, and
23 orders issued, by the Secretary of Homeland Secu-
24 rity under a provision of chapter 449 are provided
25 under chapter 463.

1 “(2) GENERAL CIVIL PENALTIES.—

2 “(A) MAXIMUM CIVIL PENALTIES.—A per-
3 son is liable to the United States Government
4 for a civil penalty of not more than \$10,000 for
5 a violation of a regulation prescribed, or order
6 issued, by the Secretary of Homeland Security
7 under an applicable provision of this title.

8 “(B) SEPARATE VIOLATIONS.—A separate
9 violation occurs under this paragraph for each
10 day the violation continues.

11 “(3) ADMINISTRATIVE IMPOSITION OF CIVIL
12 PENALTIES.—

13 “(A) IN GENERAL.—The Secretary of
14 Homeland Security may impose a civil penalty
15 for a violation of a regulation prescribed, or
16 order issued, under an applicable provision of
17 this title. The Secretary of Homeland Security
18 shall give written notice of the finding of a vio-
19 lation and the penalty.

20 “(B) CIVIL ACTIONS TO COLLECT PEN-
21 ALTIES.—In a civil action to collect a civil pen-
22 alty imposed by the Secretary under this para-
23 graph, the issues of liability and the amount of
24 the penalty may not be reexamined.

1 “(C) EXCLUSIVE JURISDICTION OF DIS-
2 TRICT COURTS.—Notwithstanding subpara-
3 graph (A) of this paragraph, the district courts
4 of the United States have exclusive jurisdiction
5 of a civil action involving a penalty that the
6 Secretary initiates if—

7 “(i) the amount in controversy is
8 more than—

9 “(I) \$400,000 if the violation
10 was committed by a person other than
11 an individual or small business con-
12 cern; or

13 “(II) \$50,000 if the violation was
14 committed by an individual or small
15 business concern;

16 “(ii) the action is in rem or another
17 action in rem based on the same violation
18 has been brought; or

19 “(iii) another action has been brought
20 for an injunction based on the same viola-
21 tion.

22 “(D) MAXIMUM CIVIL PENALTIES IMPOSED
23 BY THE SECRETARY.—The maximum civil pen-
24 alty the Secretary may impose under this para-
25 graph is—

1 “(i) \$400,000 if the violation was
2 committed by a person other than an indi-
3 vidual or small business concern; or

4 “(ii) \$50,000 if the violation was com-
5 mitted by an individual or small business
6 concern.

7 “(E) NOTICE AND OPPORTUNITY TO RE-
8 QUEST HEARING.—Before imposing a penalty
9 under this section the Secretary shall provide to
10 the person against whom the penalty is to be
11 imposed—

12 “(i) written notice of the proposed
13 penalty; and

14 “(ii) the opportunity to request, not
15 later than 30 days after the date on which
16 the person receives the notice, a hearing on
17 the proposed penalty.

18 “(4) COMPROMISE AND SETOFF.—

19 “(A) COMPROMISE.—The Secretary may
20 compromise the amount of a civil penalty im-
21 posed under this subsection.

22 “(B) SETOFF.—The Government may de-
23 duct the amount of a civil penalty imposed or
24 compromised under this subsection from

1 amounts it owes the person liable for the pen-
2 alty.

3 “(5) INVESTIGATIONS AND PROCEEDINGS.—The
4 provisions set forth in chapter 461 shall be applica-
5 ble to investigations and proceedings brought under
6 this subsection to the same extent that they are ap-
7 plicable to investigations and proceedings brought
8 with respect to aviation security duties designated to
9 be carried out by the Secretary.

10 “(6) NONAPPLICATION.—

11 “(A) PERSONS SUBJECT TO PENALTIES
12 DETERMINED BY THE SECRETARY OF DE-
13 FENSE.—Paragraphs (1) through (4) of this
14 subsection do not apply to the following per-
15 sons, who shall be subject to penalties as deter-
16 mined by the Secretary of Defense or the Sec-
17 retary’s designee:

18 “(i) The transportation of personnel
19 or shipments of materials by contractors
20 where the Department of Defense has as-
21 sumed control and responsibility.

22 “(ii) A member of the Armed Forces
23 of the United States when performing offi-
24 cial duties.

1 “(iii) A civilian employee of the De-
2 partment of Defense when performing offi-
3 cial duties.

4 “(B) POSTAL SERVICE; DEPARTMENT OF
5 DEFENSE.—In this subsection, the term ‘per-
6 son’ does not include—

7 “(i) the United States Postal Service;
8 or

9 “(ii) the Department of Defense.

10 “(7) SMALL BUSINESS CONCERN DEFINED.—
11 The term ‘small business concern’ has the meaning
12 given that term in section 3 of the Small Business
13 Act (15 U.S.C. 632).”.

14 (b) CONFORMING AMENDMENT.—Section
15 46301(a)(4) of title 49, United States Code, is amended
16 by striking “or another requirement under this subtitle ad-
17 ministered by the Under Secretary of Transportation for
18 Security”.

19 **SEC. 1533. SCHOOL BUS TRANSPORTATION SECURITY.**

20 (a) SCHOOL BUS SECURITY THREAT ASSESSMENT.—
21 Not later than 1 year after the date of enactment of this
22 Act, the Secretary shall transmit to the appropriate con-
23 gressional committees, a report, including a classified re-
24 port, as appropriate, containing a comprehensive threat
25 assessment of the threat of a terrorist attack on the Na-

tion's school bus transportation system in accordance with the requirements of this section.

(b) CONTENTS OF THREAT ASSESSMENT.—The assessment shall include—

(1) an assessment of the Nation's school bus transportation system, including publicly and privately operated systems;

(2) the security threats to the assets and systems;

(3) an assessment of actions already taken by operators to address identified security vulnerabilities by both private and publicly operated systems;

(4) an assessment of additional actions and investments necessary to improve the security of the Nation's school children traveling on school buses;

(5) an assessment of whether additional legislation or Federal programs are needed to provide for the security of children traveling on school buses; and

(6) an assessment of the psychological and economic impacts of an attack on school buses.

(c) CONSULTATION.—In conducting the threat assessment, the Secretary shall consult with administrators and officials of school systems, representatives of the

1 school bus industry, including both public and privately
2 operated systems, public safety and law enforcement offi-
3 cials, and nonprofit employee labor organizations rep-
4 resenting school bus drivers.

5 **SEC. 1534. ENHANCED SECURITY MEASURES FOR SHIP-**
6 **MENTS OF SECURITY SENSITIVE MATERIALS.**

7 (a) IN GENERAL.—Not later than 90 days after the
8 date of enactment of this Act, the Secretary, in consulta-
9 tion with the Secretary of Transportation, shall issue reg-
10 ulations to require enhanced security measures for ship-
11 ments of security sensitive materials.

12 (b) DEFINITIONS.—

13 (1) SECURITY SENSITIVE MATERIAL.—The Sec-
14 retary shall designate a material, or a group or class
15 of material, in a particular amount and form as se-
16 curity sensitive when the Secretary determines that
17 transporting the material in commerce poses a sig-
18 nificant risk to national security due to the potential
19 use of the material in an act of terrorism. In making
20 such a designation, the Secretary shall consider the
21 following:

22 (A) A highway route-controlled quantity of
23 a Class 7 (radioactive) material, as defined in
24 section 173.403 of title 49, Code of Federal

1 Regulations, in a motor vehicle, railroad car, or
2 freight container.

3 (B) More than 25 kilograms (55 pounds)
4 of a division 1.1, 1.2, or 1.3 explosive, as de-
5 fined in section 173.50 of title 49, Code of Fed-
6 eral Regulations, in a motor vehicle, rail car, or
7 freight container.

8 (C) More than one liter (1.06 quart) per
9 package of a material poisonous by inhalation,
10 as defined in section 171.8 of title 49, Code of
11 Federal Regulations, that meets the criteria for
12 hazard zone A, as specified in section
13 173.116(a) or section 173.133(a) of title 49,
14 Code of Federal Regulations.

15 (D) A shipment of a quantity of hazardous
16 materials in a bulk packaging having a capacity
17 equal to or greater than 13,248 liters (3,500
18 gallons) for liquids or gases or more than 13.24
19 cubic meters (68 cubic feet) for solids.

20 (E) A shipment in other than a bulk pack-
21 aging of 2,268 kilograms (5,000 pounds) gross
22 weight or more of one class of hazardous mate-
23 rials for which placarding of a vehicle, rail car,
24 or freight container is required for that class

1 under the provisions of section 172.521B of
2 title 49, Code of Federal Regulations.

3 (F) A select agent or toxin regulated by
4 the Centers for Disease Control and Prevention
5 under part 73 of title 42, Code of Federal Reg-
6 ulations.

7 (G) A quantity of hazardous material that
8 requires placarding under the provisions of sub-
9 part F of part 172 of title 49, Code of Federal
10 Regulations.

11 (2) AREA OF CONCERN.—For purposes of this
12 section, the term “area of concern” means a geo-
13 graphic region designated by the Secretary as com-
14 manding special consideration with respect to the se-
15 curity of the transportation of security sensitive ma-
16 terials, which shall include high threat urban areas
17 as determined by the Secretary.

18 (3) STORAGE PATTERN.—The term “storage
19 pattern” is defined as the conditions of storage, in-
20 cluding—

21 (A) location of cars in railroad yards or on
22 railroad-controlled leased tracks;

23 (B) type of storage (such as bulk transfer
24 or not);

1 (C) typical types and numbers of security
2 sensitive material cars stored in close proximity
3 (in ranges);

4 (D) population density;

5 (E) average length of time cars are stored,
6 attended or unattended; and

7 (F) security measures present, including
8 physical security measures, secure handoffs and
9 nearest available safe havens for storage in case
10 of heightened threat conditions.

11 (4) MOST SECURE.—The term “most secure
12 route or storage pattern” means the route or storage
13 pattern that best reduces the risk, including con-
14 sequences, of a terrorist attack on a shipment of se-
15 curity sensitive material that is transported through
16 or near an area of concern.

17 (c) COMPILATION OF ROUTE AND STORAGE PAT-
18 TERN INFORMATION FOR RAILROAD CARRIERS TRANS-
19 PORTING SECURITY SENSITIVE MATERIALS.—Not later
20 than 90 days after the end of each calendar year, a rail-
21 road carrier shall compile commodity data by route and
22 storage pattern, a line segment or series of line segments
23 as aggregated by the railroad carrier. Within the railroad
24 carrier selected route, the commodity data shall identify
25 the geographic location of the route and storage pattern

1 and the total number of shipments by United Nations
2 identification number for security sensitive materials and
3 storage patterns along the routes.

4 (d) RAIL TRANSPORTATION ROUTE AND STORAGE
5 PATTERN ANALYSIS FOR SECURITY SENSITIVE MATE-
6 RIALS.—For each calendar year, a railroad carrier shall
7 provide a written analysis of the security risks for the
8 transportation routes and storage patterns, identified in
9 the commodity data collected as required by subsection
10 (c). The security risks present shall be analyzed for the
11 route, railroad facilities, railroad storage facilities, private
12 storage facilities, and areas of concern along or in prox-
13 imity to the route.

14 (e) ALTERNATIVE ROUTE AND STORAGE PATTERN
15 ANALYSIS FOR SECURITY SENSITIVE MATERIALS.—

16 (1) By the end of each calendar year, a railroad
17 carrier shall—

18 (A) identify to the Department practical
19 alternative routes and storage patterns that will
20 avoid areas of concern for each of the transpor-
21 tation routes or facilities it used to ship or store
22 security sensitive materials through or near
23 areas of concern in the last calendar year; and

24 (B) perform a security risk assessment of
25 the alternative route or storage pattern for

1 comparison to the route and storage pattern
2 analysis specified in subsection (d).

3 (2) The analysis shall include the following:

4 (A) Identification of security risks for al-
5 ternative route or storage pattern.

6 (B) Comparison of those risks identified in
7 subparagraph (A) to the primary rail transpor-
8 tation route or storage pattern.

9 (3) railroad carriers transporting security sen-
10 sitive materials must consider the availability of
11 interchange agreements or systems of tracks and fa-
12 cilities owned by other operators when determining
13 whether an alternate route for transporting the secu-
14 rity sensitive materials to avoid areas of concern is
15 practical.

16 (4) An alternate route or storage facility that
17 will avoid an area of concern may be considered by
18 the railroad carrier to be impractical if the shipment
19 originates in or is destined for the area of concern,
20 or if there would be no harm beyond the property
21 of the railroad carrier transporting the shipment or
22 storage facility storing the shipment in the event of
23 a successful terrorist attack on the shipment.

24 (f) ALTERNATIVE ROUTE AND STORAGE PATTERN
25 SELECTION FOR SECURITY SENSITIVE MATERIALS.—A

1 railroad carrier shall use the analysis required by sub-
2 sections (d) and (e) to select the most secure route and
3 storage pattern to be used in moving the materials speci-
4 fied in subsection (b).

5 (g) REVIEW.—Not less than once every 5 years, the
6 analyses route and storage pattern selection determina-
7 tions required under subsections (c), (d), (e), and (f) shall
8 include a comprehensive, system-wide review of all oper-
9 ational changes, infrastructure modifications, traffic ad-
10 justments, changes in the nature of the areas of concern
11 located along or in proximity to the route, or other
12 changes affecting the security of the movements of the ma-
13 terials specified in subsection (b) of this section that were
14 implemented during the 5-year period.

15 **SEC. 1535. TECHNOLOGY STANDARDS AND CLEARING-**
16 **HOUSE TO IMPROVE SECURITY OF COVERED**
17 **TRANSPORTATION.**

18 (a) IN GENERAL.—The Secretary, acting through the
19 Under Secretary for Science and Technology and the Di-
20 rector of the Domestic Nuclear Detection Office (for radi-
21 ological and nuclear detection technologies and training),
22 in consultation with the Director of the National Institute
23 of Standards and Technology and other appropriate Fed-
24 eral agencies, as appropriate, shall establish a standards
25 program to support the development, promulgation, and

1 updating as necessary of national voluntary consensus
2 standards for performance, testing, use, and training with
3 respect to technologies that will improve the security of
4 covered transportation in order to meet the security plan
5 requirements under section 1513(d)(1) and the security
6 performance requirements under section 1513(f).

7 (b) EQUIPMENT STANDARDS.—

8 (1) REQUIREMENTS.—The standards for the
9 performance, use, and validation of equipment devel-
10 oped under subsection (a) shall be designed to assist
11 Federal, State, local, and tribal government and
12 nongovernment emergency response providers, other
13 components of the Department, providers of covered
14 transportation, shippers of hazardous material, man-
15 ufacturers of railroad and transit cars, transpor-
16 tation and public safety officials, and other relevant
17 stakeholders in acquiring and implementing tech-
18 nologies to prevent, prepare for, mitigate against,
19 and respond to acts of terrorism on covered trans-
20 portation. Such standards—

21 (A) shall be, to the maximum extent prac-
22 ticable, consistent with any existing voluntary
23 consensus standards;

24 (B) shall take into account, as appropriate,
25 new types of terrorism threats which may tar-

1 get covered transportation and responsibilities
2 of the Department that may not have been con-
3 templated when such existing standards were
4 developed;

5 (C) shall focus on maximizing interoper-
6 ability, interchangeability, durability, flexibility,
7 efficiency, efficacy, portability, sustainability,
8 and safety;

9 (D) shall facilitate deployment of the sys-
10 tems to the field and include concept of oper-
11 ations;

12 (E) shall consider human factors science;
13 and

14 (F) shall cover all appropriate uses of the
15 equipment.

16 (2) CATEGORIES OF EQUIPMENT.—In carrying
17 out paragraph (1), the Secretary shall specifically
18 consider national voluntary consensus standards for
19 the performance, use, and validation of the following
20 categories of equipment:

21 (A) Physical security equipment, including
22 surveillance cameras, alarm systems, access/in-
23 trusion control, motion detection, barriers such
24 as fences, impact resistant doors, bomb-resist-

1 ant trash receptacles, and personnel and vehicle
2 identification systems.

3 (B) Interoperable communications equip-
4 ment, including wireless and wireline voice,
5 video, and data networks.

6 (C) Information technology, including posi-
7 tion locating and tracking systems.

8 (D) Cybersecurity equipment, including bi-
9 ometric authentication systems, network and
10 personal firewalls and other authentication
11 technologies.

12 (E) Personal protective equipment, includ-
13 ing garments, boots, gloves, and hoods and
14 other protective clothing.

15 (F) Operational and search and rescue
16 equipment, including canines and scene control
17 and safety equipment such as first aid kits.

18 (G) Explosive mitigation devices and explo-
19 sive detection and analysis equipment.

20 (H) Chemical, biological, radiological, and
21 nuclear detection equipment.

22 (I) Decontamination equipment.

23 (J) Noninvasive inspection and screening
24 systems.

25 (K) Medical and pharmaceutical supplies.

1 (L) Other terrorism incident prevention
2 equipment.

3 (M) Such other equipment for which the
4 Secretary determines that national voluntary
5 consensus standards would be appropriate to
6 improve the security of covered transportation.

7 (3) CERTIFICATION AND ACCREDITATION.—The
8 Secretary, in carrying out this subsection, and in co-
9 ordination with the Director of the National Insti-
10 tute of Standards and Technology, may support the
11 certification of equipment and the accreditation of
12 laboratories to conduct testing and evaluation.

13 (c) TRAINING STANDARDS.—

14 (1) REQUIREMENTS.—The standards for the
15 training developed under subsection (a) shall be de-
16 signed to enable Federal, State, local, and tribal gov-
17 ernment and nongovernment emergency response
18 providers, other Department personnel, providers of
19 covered transportation, shippers of hazardous mate-
20 rial, manufacturers of railroad and transit cars,
21 transportation and public safety officials, and other
22 relevant stakeholders to use equipment effectively
23 and appropriately in carrying out their responsibil-
24 ities to secure covered transportation. Such stand-
25 ards shall prioritize—

1 (A) enabling appropriate stakeholders to
2 prevent, prepare for, respond to, mitigate
3 against, and recover from terrorist threats on
4 covered transportation, including threats from
5 chemical, biological, radiological, and nuclear
6 weapons and explosive devices capable of inflict-
7 ing significant human casualties, and other po-
8 tentially catastrophic emergencies; and

9 (B) familiarizing appropriate stakeholders
10 with the proper use of equipment, including the
11 capabilities and limitations of equipment and
12 conditions in which the equipment is expected
13 to operate.

14 (2) CATEGORIES OF ACTIVITIES.—In carrying
15 out paragraph (1), the Secretary specifically shall in-
16 clude the following categories of activities:

17 (A) Regional planning.

18 (B) Joint exercises.

19 (C) Information analysis and sharing.

20 (D) Decision making protocols for incident
21 response and alarms.

22 (E) Emergency notification of affected
23 populations.

1 (F) Detection of biological, nuclear, radio-
2 logical, and chemical weapons of mass destruc-
3 tion.

4 (G) Screening and patrolling procedures.

5 (H) Such other activities for which the
6 Secretary determines that national voluntary
7 consensus training standards would be appro-
8 priate.

9 (3) CONSISTENCY.—In carrying out this sub-
10 section, the Secretary shall ensure that training
11 standards are consistent with the principles of all
12 hazards emergency preparedness.

13 (d) CONSULTATION WITH STANDARDS ORGANIZA-
14 TIONS.—In establishing national voluntary consensus
15 standards for equipment and training under this section,
16 the Secretary shall consult with relevant public and private
17 sector groups, including—

18 (1) the National Institute of Standards and
19 Technology;

20 (2) the American Public Transportation Asso-
21 ciation;

22 (3) the National Fire Protection Association;

23 (4) the National Association of County and City
24 Health Officials;

25 (5) the Association of American Railroads;

- 1 (6) the American Bus Association;
- 2 (7) the Association of State and Territorial
- 3 Health Officials;
- 4 (8) the American National Standards Institute;
- 5 (9) the National Institute of Justice;
- 6 (10) the Inter-Agency Board for Equipment
- 7 Standardization and Interoperability;
- 8 (11) the National Public Health Performance
- 9 Standards Program;
- 10 (12) the National Institute for Occupational
- 11 Safety and Health;
- 12 (13) ASTM International;
- 13 (14) the International Safety Equipment Asso-
- 14 ciation;
- 15 (15) the Emergency Management Accreditation
- 16 Program;
- 17 (16) nonprofit employee labor organizations;
- 18 and
- 19 (17) to the extent the Secretary considers ap-
- 20 propriate, other national voluntary consensus stand-
- 21 ards development organizations, other interested
- 22 Federal, State, and local agencies, and other inter-
- 23 ested persons.
- 24 (e) TECHNOLOGY CLEARINGHOUSE TO ENHANCE
- 25 THE SECURITY OF COVERED TRANSPORTATION.—

1 (1) IN GENERAL.—The Secretary shall utilize
2 the Technology Clearinghouse established under sec-
3 tion 313 of the Homeland Security Act of 2002 (6
4 U.S.C. 193) to facilitate the identification, acquisi-
5 tion, and deployment of technology, equipment, and
6 training for use by Federal, State, local, and tribal
7 agencies, emergency response providers, other com-
8 ponents of the Department, providers of covered
9 transportation, shippers of hazardous material, man-
10 ufacturers of railroad and transit cars, transpor-
11 tation and public safety officials, and other relevant
12 stakeholders to prevent, prepare for, mitigate
13 against, respond to, or recover from acts of ter-
14 rorism on covered transportation.

15 (2) ELEMENTS OF THE TECHNOLOGY CLEAR-
16 INGHOUSE.—Activities in carrying out paragraph (1)
17 shall include—

18 (A) identifying available technologies that
19 have been, or are in the process of being, devel-
20 oped, tested, evaluated, or demonstrated by the
21 Department, other Federal agencies, the private
22 sector, or foreign governments and international
23 organizations, and reviewing whether such tech-
24 nologies may be useful in assisting appropriate
25 stakeholders to prevent, prepare for, mitigate

1 against, respond to, or recover from acts of ter-
2 rorism on covered transportation; and

3 (B) communicating to Federal, State,
4 local, and tribal agencies, emergency response
5 providers, other components of the Department,
6 providers of covered transportation, shippers of
7 hazardous material, manufacturers of railroad
8 and transit cars, transportation and public safe-
9 ty officials, and other relevant stakeholders the
10 availability of such technologies, as well as—

11 (i) the technology's specifications and
12 concept of operations;

13 (ii) satisfaction of appropriate equip-
14 ment and training standards developed
15 under subsections (a) and (b);

16 (iii) relevant grants available from the
17 Department to purchase or train with such
18 technologies; and

19 (iv) whether the Secretary has des-
20 ignated a product, equipment, service, de-
21 vice, or technology under subparagraph (A)
22 as a qualified antiterrorism technology
23 pursuant to the Support Anti-terrorism by
24 Fostering Effective Technologies Act of
25 2002 (6 U.S.C. 441 et seq.).

1 (3) COORDINATION.—The Secretary shall en-
2 sure that the technology clearinghouse activities con-
3 ducted through the Under Secretary for Science and
4 Technology are coordinated with appropriate compo-
5 nents of the Department including the Domestic Nu-
6 clear Detection Office, the Transportation Security
7 Administration, the Office of Infrastructure Protec-
8 tion, the Office of Grants and Training, and the
9 Federal Emergency Management Agency.

10 (4) AGREEMENTS.—The Secretary may enter
11 into memoranda of understandings or agreements
12 with other Federal agencies, foreign governments,
13 and national and international organizations as ap-
14 propriate, in order to maximize the availability of
15 such technologies and information through the Tech-
16 nology Clearinghouse.

17 (f) SAVINGS PROVISION.—An action of the Secretary
18 or the Secretary of Transportation under this Act is not
19 an exercise, under section 4(b)(1) of the Occupational
20 Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of
21 statutory authority to prescribe or enforce standards or
22 regulations affecting occupational safety or health.

23 **SEC. 1536. RAIL TANK CAR SECURITY TESTING.**

24 (a) RAIL TANK CAR VULNERABILITY ASSESS-
25 MENT.—

1 (1) ASSESSMENT.—The Secretary and the Sec-
2 retary of Transportation shall jointly assess the like-
3 ly methods of a deliberate attack against a rail tank
4 car used to transport toxic-inhalation-hazard mate-
5 rials, and for each method assessed, the degree to
6 which it may be successful in causing death, injury,
7 or serious adverse effects to human health, the envi-
8 ronment, critical infrastructure, national security,
9 the national economy, or public welfare.

10 (2) THREATS.—In carrying out paragraph (1),
11 the Secretary and the Secretary of Transportation
12 shall jointly consider the most current threat infor-
13 mation as to likely methods of a successful attack on
14 a rail tank car transporting toxic-inhalation-hazard
15 materials, and may consider the following:

16 (A) An improvised explosive device placed
17 along the tracks.

18 (B) An improvised explosive device at-
19 tached to the rail car.

20 (C) The use of shoulder-fired missiles.

21 (D) The use of rocket propelled grenades.

22 (E) The use of mortars or high-caliber
23 weapons.

24 (3) PHYSICAL TESTING.—In developing the as-
25 sessment required under paragraph (1), the Sec-

1 retary and the Secretary of Transportation shall
2 conduct physical testing of the vulnerability of rail
3 tank cars used to transport toxic-inhalation-hazard
4 materials to different methods of a deliberate attack,
5 using technical information and criteria to evaluate
6 the structural integrity of railroad tank cars.

7 (4) REPORT.—Not later than 30 days after the
8 completion of the assessment under paragraph (1),
9 the Secretary shall provide to the appropriate con-
10 gressional committees a report, in the appropriate
11 format, on such assessment.

12 (b) RAIL TANK CAR DISPERSION MODELING.—

13 (1) IN GENERAL.—The Secretary, acting
14 through the National Infrastructure Simulation and
15 Analysis Center, shall conduct air dispersion mod-
16 eling analysis of a release of the contents of a single
17 rail tank car of toxic-inhalation-hazard materials in
18 at least three high-threat urban areas in the United
19 States.

20 (2) CONSIDERATIONS.—The analysis under this
21 subsection shall take into account the following con-
22 siderations:

23 (A) A deliberate attack on a rail tank car
24 transporting toxic-inhalation-hazard materials,

1 including the most likely means of attack and
2 the resulting dispersal rate.

3 (B) Different times of day, to account for
4 differences in population size and density in the
5 urban area, as well as differences in cloud cov-
6 erage over the affected regions.

7 (C) Historically accurate wind speeds, tem-
8 peratures and directions.

9 (D) The difference between a rail tank car
10 in motion and a stationary rail tank car.

11 (E) Emergency response procedures by
12 local officials, including the availability of med-
13 ical countermeasures to treat exposures to
14 toxic-inhalation-hazard materials.

15 (F) Any other considerations the Secretary
16 believes would develop an accurate, plausible
17 dispersion model for toxic-inhalation-hazard
18 materials released from a rail tank car as a re-
19 sult of a terrorist act.

20 (3) CONSULTATION.—In conducting the disper-
21 sion modeling under paragraph (1), the Secretary
22 and the Secretary of Transportation shall consult
23 with the appropriate State, local, and tribal officials
24 of the high-threat urban area selected, and with
25 other Federal agencies as appropriate.

1 (4) INFORMATION SHARING.—Upon completion
2 of the analysis required under paragraph (1), the
3 Secretary shall share the information developed with
4 the appropriate stakeholders within each high-threat
5 urban area selected, given appropriate information
6 protection provisions as may be required by the Sec-
7 retary.

8 (5) REPORT.—Not later than 30 days after
9 completion of all dispersion analyses under para-
10 graph (1), the Secretary shall submit to the appro-
11 priate congressional committees a report detailing
12 the Secretary's conclusions and findings in an appro-
13 priate format.

14 **SEC. 1537. RAIL RADIOLOGICAL AND NUCLEAR DETECTION.**

15 (a) PROTOTYPE.—Not later than one year after the
16 date of enactment of this Act, the Domestic Nuclear De-
17 tection Office shall begin testing and evaluation of proto-
18 type systems to detect nuclear or radiological materials in
19 rail security venues, including spectroscopic technologies.

20 (b) STRATEGY.—Upon successful developmental test-
21 ing and evaluation of such radiation detection technologies
22 at Domestic Nuclear Detection Office test facilities, as
23 well as extensive testing and evaluation in operational en-
24 vironments, the Domestic Nuclear Detection Office shall,
25 in coordination with Customs and Border Protection and

1 the Transportation Security Administration, ensure ap-
2 propriate training, operations, and response protocols are
3 established and, shall develop a deployment strategy to de-
4 tect nuclear or radiological materials arriving in or trans-
5 porting through the United States by rail. Such strategy
6 shall consider the integration of radiation detection tech-
7 nologies with other nonintrusive inspection technologies,
8 including imagery and density scanning, in order to utilize
9 existing rail examination facilities and further strengthen
10 border security.

11 (c) REPORT TO CONGRESS.—Not later than Sep-
12 tember 30, 2008, the Domestic Nuclear Detection Office
13 shall transmit to Congress a report. Such report shall—

14 (1) describe the progress of testing and evalua-
15 tion under subsection (a); and

16 (2) in coordination with U.S. Customs and Bor-
17 der Protection and the Transportation Security Ad-
18 ministration, describe the development of a strategy
19 under subsection (b).

20 (d) IMPLEMENTATION.—The Domestic Nuclear De-
21 tecton Office, U.S. Customs and Border Protection, and
22 the Transportation Security Administration shall begin
23 implementation of the strategy developed under subsection
24 (b) after verification of systems performance.

1 **SEC. 1538. REQUIREMENT TO PROVIDE PREFERENCE TO**
2 **QUALIFIED ANTI-TERRORISM TECH-**
3 **NOLOGIES.**

4 (a) PREFERENCE.—In using grant funds provided
5 under this title to purchase products, equipment, services,
6 devices, or technologies to be employed in the implementa-
7 tion of any security plan required under this subtitle, a
8 grant recipient should, to the extent practicable, give pref-
9 erence to products, equipment, services, devices, and tech-
10 nologies that the Secretary has designated as qualified
11 anti-terrorism technologies under the Support Anti-ter-
12 rorism by Fostering Effective Technologies Act of 2002
13 (subtitle G of title VIII of the Homeland Security Act of
14 2002; 6 U.S.C. 441 et seq.), if the grant recipient deter-
15 mines that such a product, equipment, service, device, or
16 technology meets or exceeds the requirements of the secu-
17 rity plan.

18 (b) SAVINGS PROVISION.—Nothing in this section
19 shall affect grant recipient requirements pursuant to sec-
20 tion 5323(j) of title 49, United States Code, section
21 24305(f) of title 49, United States Code, and the Buy
22 American Act (41 U.S.C. 10).

1 **SEC. 1539. PROMOTING LIABILITY PROTECTIONS FOR PRO-**
2 **VIDERS OF COVERED TRANSPORTATION AND**
3 **RELATED TECHNOLOGIES.**

4 The Secretary shall work with providers of covered
5 transportation to identify for procurement products,
6 equipment, services, devices, and technologies to be em-
7 ployed in the implementation of security plans required
8 under this subtitle, that are designated by the Secretary
9 as qualified anti-terrorism technologies under the Support
10 Anti-terrorism by Fostering Effective Technologies Act of
11 2002 (subtitle G of title VIII of the Homeland Security
12 Act of 2002; 6 U.S.C. 441 et seq.) or may otherwise be
13 eligible for liability protections.

14 **SEC. 1540. INTERNATIONAL RAIL SECURITY PROGRAM.**

15 (a) NON-INTRUSIVE INSPECTION EQUIPMENT.—For
16 the purpose of checking in-bound rail shipments to the
17 United States for terrorists or weapons, including weapons
18 of mass destruction, the Secretary shall—

19 (1) deploy, where practicable, non-intrusive in-
20 spection imaging equipment at locations where rail
21 shipments cross an international border to enter the
22 United States; or

23 (2) implement alternative procedures to check
24 such rail shipments at locations where the deploy-
25 ment of non-intrusive inspection imaging equipment
26 is determined to not be practicable.

1 (b) ADVANCED FILING OF SECURITY DATA.—

2 (1) IN GENERAL.—The Secretary shall—

3 (A) identify and seek the submission of ad-
4 ditional data elements for improved high-risk
5 targeting related to the movement of cargo
6 through the international supply chain utilizing
7 a railroad prior to importation into the United
8 States; and

9 (B) analyze the data provided pursuant to
10 in paragraph (1) to identify high-risk cargo for
11 inspection.

12 (2) INTERNATIONAL SUPPLY CHAIN DE-
13 FINED.—For purposes of this subsection, the term
14 “international supply chain” means the end-to-end
15 process for shipping goods to or from the United
16 States beginning at the point of origin (including
17 manufacturer, supplier, or vendor) through a point
18 of distribution to the destination.

19 (c) USE OF TRANSPORTATION DATA.—In carrying
20 out this subsection, the Secretary shall make use of data
21 collected and maintained by the Secretary of Transpor-
22 tation.

1 **SEC. 1541. TERRORIST WATCHLIST AND IMMIGRATION STA-**
2 **TUS REVIEW AT HIGH-RISK TRANSPOR-**
3 **TATION SITES.**

4 In carrying out section 5129, the Secretary shall re-
5 quire each provider of covered transportation, including
6 contractors and subcontractors, assigned to a high-risk
7 tier under section 1512 to submit the names of their em-
8 ployees to the Secretary to conduct checks of their employ-
9 ees against available terrorist watchlists and immigration
10 status databases.

11 **SEC. 1542. REVIEW OF GRANT-MAKING EFFICIENCY.**

12 (a) ANNUAL STUDY.—The Comptroller General of
13 the United States shall conduct an annual study for each
14 of the first 3 years after the enactment of this Act regard-
15 ing the administration and use of the grants awarded
16 under sections 1515, 1516, and 1517 of this title, includ-
17 ing—

18 (1) the efficiency of the division of the grant-
19 making process, including whether the Department
20 of Transportation's role in distributing, auditing,
21 and monitoring the grant funds produces efficiency
22 compared to the consolidation of these responsibil-
23 ities in the Department of Homeland Security;

24 (2) whether the roles of the Department of
25 Homeland Security and the Department of Trans-
26 portation in the administration of the grants permit

1 the grants to be awarded and used in a timely and
2 efficient manner and according to their intended
3 purposes;

4 (3) the use of grant funds, including whether
5 grant funds are used for authorized purposes.

6 (b) REPORT.—The Comptroller General of the
7 United States shall submit an annual report to the appro-
8 priate congressional committees on the results of the study
9 for each of the first 3 years after enactment of this Act,
10 including any recommendations for improving the admin-
11 istration and use of the grant funds awarded under sec-
12 tions 1515, 1516, and 1517.

13 **SEC. 1543. ROLES OF THE DEPARTMENT OF HOMELAND SE-**
14 **CURITY AND THE DEPARTMENT OF TRANS-**
15 **PORTATION.**

16 The Secretary of Homeland Security is the principal
17 Federal official responsible for transportation security.
18 The roles and responsibilities of the Department of Home-
19 land Security and the Department of Transportation in
20 carrying out sections 1511, 1513, 1514, 1515, 1516,
21 1517, 1519, 1520, 1521, 1523, 1533, 1534, 1535, 1536,
22 1537, 1538, 1539, 1540, 1541, and 1551 of this title are
23 the roles and responsibilities of such Departments pursu-
24 ant to the Aviation and Transportation Security Act (Pub-
25 lic Law 107–71); the Intelligence Reform and Terrorism

1 Prevention Act of 2004 (Public Law 108–458); the Na-
2 tional Infrastructure Protection Plan required by Home-
3 land Security Presidential Directive 7; Executive Order
4 13416: Strengthening Surface Transportation Security,
5 dated December 5, 2006; the Memorandum of Under-
6 standing between the Department and the Department of
7 Transportation on Roles and Responsibilities, dated Sep-
8 tember 28, 2004; the Annex to the Memorandum of Un-
9 derstanding between the Department and the Department
10 of Transportation on Roles and Responsibilities con-
11 cerning Railroad Security, dated September 28, 2006; the
12 Annex to the Memorandum of Understanding between the
13 Department and the Department of Transportation on
14 Roles and Responsibilities concerning Public Transpor-
15 tation Security, dated September 8, 2005; and any subse-
16 quent agreements between the Department of Homeland
17 Security and the Department of Transportation.

18 **SEC. 1544. ASSESSMENT AND REPORT.**

19 (a) STUDY.—The Secretary, in coordination with the
20 Secretary of Transportation, shall assess the safety and
21 security vulnerabilities of placing high voltage direct cur-
22 rent electric transmission lines along active railroad
23 rights-of-way. In conducting the assessment, the Secretary
24 shall, at a minimum, evaluate the risks to local inhabitants
25 and to consumers of electric power transmitted by those

1 lines, associated with a train collision or derailment that
2 damages such electric transmission lines.

3 (b) REPORT.—Not later than 6 months after the date
4 of enactment of this Act, the Secretary shall transmit the
5 results of the assessment in subsection (a) to the appro-
6 priate congressional committees as defined in this title.

7 **SEC. 1545. STUDY OF FOREIGN RAIL SECURITY PRACTICES.**

8 The Secretary shall—

9 (1) study select foreign rail security practices,
10 and the cost and feasibility of implementing selected
11 best practices that are not currently used in the
12 United States, including—

13 (A) implementing covert testing processes
14 to evaluate the effectiveness of rail system secu-
15 rity personnel;

16 (B) implementing practices used by foreign
17 rail operators that integrate security into infra-
18 structure design;

19 (C) implementing random searches or
20 screening of passengers and their baggage; and

21 (D) establishing and maintaining an infor-
22 mation clearinghouse on existing and emergency
23 security technologies and security best practices
24 used in the passenger rail industry both in the
25 United States and abroad; and

1 (2) report the results of the study, together
2 with any recommendations that the Secretary may
3 have for implementing covert testing, practices for
4 integrating security in infrastructure design, random
5 searches or screenings, and an information clearing-
6 house to the Committee on Homeland Security and
7 Governmental Affairs of the Senate, the Committee
8 on Homeland Security of the House of Representa-
9 tives, the Committee on Commerce, Science, and
10 Transportation of the Senate, and the Committee on
11 Transportation and Infrastructure of the House of
12 Representatives not later than 1 year after the date
13 of enactment of this Act.

14 **SEC. 1546. ALTERNATIVE MATERIAL SOURCES.**

15 The Secretary of Transportation, in consultation with
16 the Secretary, shall establish a program to coordinate with
17 State and local governments to minimize the need for
18 transportation of toxic inhalation hazardous materials by
19 rail.

20 **SEC. 1547. IMMUNITY FOR REPORTING SUSPICIOUS ACTIVI-**
21 **TIES AND MITIGATING TERRORIST THREATS**
22 **RELATING TO TRANSPORTATION SECURITY.**

23 (a) IMMUNITY FOR REPORTING SUSPICIOUS BEHAV-
24 IOR.—Any person who makes or causes to be made a vol-
25 untary disclosure of any suspicious transaction, activity or

1 occurrence indicating that an individual may be engaging
2 or preparing to engage in a matter described in subsection
3 (b) to any employee or agent of the Department of Home-
4 land Security, the Department of Transportation, the De-
5 partment of Justice, any Federal, State, or local law en-
6 forcement officer, any transportation security officer, or
7 to any employee or agent of a transportation system shall
8 be immune from civil liability to any person under any
9 law or regulation of the United States, any constitution,
10 law, or regulation of any State or political subdivision of
11 any State, for such disclosure.

12 (b) COVERED DISCLOSURES.—The matter referred to
13 in subsection (a) is a possible violation or attempted viola-
14 tion of law or regulation relating—

15 (1) to a threat to transportation systems or
16 passenger safety or security; or

17 (2) to an act of terrorism, as defined in section
18 3077 of title 18, United States Code, that involves
19 or is directed against transportation systems or pas-
20 sengers.

21 (c) IMMUNITY FOR MITIGATION OF THREATS.—Any
22 person, including an owner, operator or employee of a
23 transportation system, who takes reasonable action to
24 mitigate a suspicious matter described in subsection (b)
25 shall be immune from civil liability to any person under

1 any law or regulation of the United States, any constitu-
2 tion, law, or regulation of any State or political subdivision
3 of any State, for such action.

4 (d) LIMITATION ON APPLICATION.—Subsection (a)
5 shall not apply to a statement or disclosure by a person
6 that, at the time it is made, is known by the person to
7 be false.

8 (e) ATTORNEY FEES AND COSTS.—If a person is
9 named as a defendant in a civil lawsuit for making vol-
10 untary disclosures of any suspicious transaction or taking
11 actions to mitigate a suspicious matter described in sub-
12 section (b), and the person is found to be immune from
13 civil liability under this section, the person shall be entitled
14 to recover from the plaintiff all reasonable costs and attor-
15 ney's fees as allowed by the court.

16 (f) RETROACTIVE APPLICATION.—This section shall
17 apply to activities and claims occurring on or after Novem-
18 ber 20, 2006.

1 **Subtitle B—Secure Transportation**
2 **Through Increased Use of Ca-**
3 **nine Detection Teams**

4 **SEC. 1551. INCREASING THE NUMBER OF CANINE DETEC-**
5 **TION TEAMS FOR TRANSPORTATION SECU-**
6 **RITY.**

7 (a) MINIMUM REQUIREMENT.—The Secretary shall
8 coordinate with owners and providers of covered transpor-
9 tation systems to encourage the deployment of canine de-
10 tection teams at each high-risk transportation system to
11 provide continuous coverage if the Secretary considers it
12 necessary. Each canine detection team—

13 (1) shall be trained to detect explosives, and, to
14 the greatest extent possible, chemical and biological
15 weapons; and

16 (2) may be deployed to alternate sites to pro-
17 vide additional coverage during times of increased
18 risk or due to specific threat information, as deter-
19 mined by the Secretary.

20 (b) INCREASE.—The Secretary shall coordinate with
21 owners and providers of covered transportation systems to
22 encourage an increase in the number of trained canine de-
23 tection teams deployed at the Nation's high-risk rail and
24 mass transit systems by not less than 10 percent each fis-
25 cal year for fiscal years 2008 through 2012. Each canine

1 detection team shall be trained to detect explosives, and,
2 to the greatest extent possible, chemical and biological
3 weapons.

4 **SEC. 1552. NATIONAL EXPLOSIVES DETECTION CANINE**
5 **TEAM PROGRAM INCREASE.**

6 (a) INCREASE IN TEAMS.—The National Explosives
7 Detection Canine Team Program of the Transportation
8 Security Administration may train up to an additional 100
9 canine detection teams per year but shall train at least
10 the following numbers of additional teams:

- 11 (1) 50 in fiscal year 2008.
- 12 (2) 55 in fiscal year 2009.
- 13 (3) 60 in fiscal year 2010.
- 14 (4) 66 in fiscal year 2011.
- 15 (5) 73 in fiscal year 2012.

16 (b) DEPLOYED THROUGHOUT COUNTRY.—The ca-
17 nine detection teams authorized under this section shall
18 be deployed across the country to strengthen the security
19 of covered transportation systems, including buses, sub-
20 way systems, ferries, and passenger railroad carriers.

21 (c) REPORT.—Not later than 90 days after the date
22 of the enactment of this section, the Administrator of the
23 Transportation Security Administration shall submit to
24 the Committee on Homeland Security of the House of
25 Representatives and the Committee on Homeland Security

1 and Governmental Affairs of the Senate a report on the
2 personnel and resource needs to fulfill the requirements
3 of this section.

4 (d) AUTHORIZATION.—There are authorized to be ap-
5 propriated such sums as may be necessary to carry out
6 this section.

7 **SEC. 1553. TRANSPORTATION SECURITY ADMINISTRATION**
8 **BREEDING PROGRAM INCREASE.**

9 (a) TSA PUPPY PROGRAM.—The Transportation Se-
10 curity Administration Puppy Program shall work to in-
11 crease the number of domestically bred canines to help
12 meet the increase in demand for canine detection teams
13 authorized in section 1552 while preserving the current
14 quality of canines provided for training.

15 (b) REPORT REQUIRED.—Not later than 90 days
16 after the date of the enactment of this section, the Admin-
17 istrator of the Transportation Security Administration
18 shall submit to the Committee on Homeland Security of
19 the House and the Committee on Homeland Security and
20 Governmental Affairs of the Senate a report on the per-
21 sonnel and resource needs to fulfill the requirements of
22 this section.

23 (c) AUTHORIZATION.—There are authorized to be ap-
24 propriated such sums as may be necessary to carry out
25 this section.